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REPORT ON THE APPLICATION IN THE MEMBER STATES
OF DIRECTIVE 82/501/EEC OF 24 JUNE 1982 ON THE
MAJOR-ACCIDENT HAZARDS OF CERTAIN INDUSTRIAL ACTIVITIES

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Directive 82/501/EEC¹ of 24 June 1982 on the major-accident hazards of certain industrial activities instituted a Community policy aimed at preventing major accidents and limiting the consequences of the latter for man and the environment.

It requires manufacturers, the Member States and the Commission to take a number of measures.

Article 18 of the Directive provides that five years after notification of the Directive, the Commission must forward to the Council and the European Parliament a report on its application, to be drawn up on the basis of an exchange of information between the Member States and the Commission.

This paper is the report.

¹OJ L 230 of 5 August 1982.

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1. CONTENTS OF THE REPORT

The first part of this report covers:

- progress on the transposition of the Directive into the national laws of the Member States; and
- the actual application of the Directive.

It then goes on to detail the various revisions of the Community law, the duties of the Committee of Competent Authorities with regard to the implementation of the Directive and the Commission's activities aimed at preventing major accidents and limiting their consequences.

2. PROGRESS ON IMPLEMENTING THE DIRECTIVE IN THE MEMBER STATES

2.1 Introduction

The Commission is responsible for checking how Community Directives are transposed into national law. This involves three stages:

- the adoption by the Member States of national laws and official communication thereof to the Commission;
- ensuring that the national laws comply with the provisions laid down in the Directives;
- the application in practice of the national laws.

Under Article 169 of the Treaty the Commission may bring proceedings for failure to comply against Member States which do not meet their obligations (the various stages of this procedure being a letter serving notice followed by a reasoned opinion and bringing the matter before the Court of Justice).

2.2 Transposition into national law; situation with regard to proceedings for non-compliance as at 29 February 1988

1. Under Article 20 of the Directive Member States must take the measures necessary to comply with this Community law by 8 January 1984 at the latest (1 January 1986 for Spain and Portugal).

There have been no proceedings for failure to comply against France or Denmark.

Proceedings against the United Kingdom initiated in February 1985 (serving notice) were quickly broken off when the United Kingdom authorities officially communicated the national implementing laws which had been adopted in December 1984.

Proceedings initiated against Belgium (serving notice and reasoned opinion), Ireland (serving notice and reasoned opinion) and Luxembourg (serving notice, reasoned opinion and bringing the matter before the Court of Justice) were dropped in June 1987, October 1986 and April 1987 respectively when the Member States concerned transmitted their national implementing measures.

In the case of the Federal Republic of Germany, the proceedings initiated in April 1987 (serving notice) have been suspended whilst the Commission examines the information transmitted by that Member State. The Federal Republic is currently amending its legislation in order to tighten it up.

The proceedings initiated in December 1986 against the Netherlands (serving notice) continue. It is expected that the Dutch authorities will shortly adopt a draft decree.

Two further proceedings (serving notice and reasoned opinion) are currently under way against Italy and Greece. The Commission has received oral information that the Italian authorities adopted a Presidential Decree in February 1988 and that this is now under discussion in the Italian parliament prior to an opinion being issued.

In Spain and Portugal the Directive entered into force on 1 January 1986 when both countries acceded to the European Communities. The Commission requested the national authorities to communicate the texts transposing the Directive into the laws of their respective countries.

The Portuguese authorities transmitted a Decree Law adopted in June 1987 which transposes the provisions of the Directive and the first amendment of 19 March 1987.

According to information passed on orally to the Commission by the Spanish authorities, a Royal Decree has been drafted and should be adopted in the near future.

It should be pointed out that the Commission's verdict on whether the provisions of a national law comply with those of a Directive is always subject to verification of correct application.

2. Under Article 11(1) the Member States must inform the Commission as soon as possible of major accidents which have occurred within their territory. Where the Commission is aware of an accident of which it has not been informed it may initiate proceedings for failure to comply against the Member States concerned. Italy and Greece are subject to such proceedings in respect of accidents which occurred in their territory (3 in Italy, 1 in Greece).

2.3 Application in practice

2.3.1 Reminder of the main obligations laid down in the Directive

The Directive lays down two types of obligation:

- . General obligations of the type set out in Articles 3 and 4 in respect of safety measures and measures to prevent major accidents in industrial installations of the kind covered by Annexes I and IV or Annex II (first column).
- . Specific obligations in respect of installations covered by Annexes I and III or Annex II (second column).

The specific obligations include the following three points in particular:

- . notification (via the report on safety and the on-site emergency plan) by the manufacturer to the Competent Authorities of the items of information listed in Article 5(1) of the Directive, i.e. information on substances, information on installations and information relating to possible major-accident situations;
- . drawing up by the Authorities of emergency plans for action outside establishments (Article 7(1)), referred to in Section 2.3 below as off-site emergency plans;
- . communication, in an appropriate manner and to persons liable to be affected by a major accident, of information on safety measures and what to do in the event of an accident (Article 8(1)).

The Directive also provides that the Competent Authorities must organize inspections or other measures of control proper to the type of activity concerned (Article 7(2)).

Also, in the event of a major accident the manufacturer must immediately inform the Competent Authorities thereof and provide them with information about it. They in their turn must inform the Commission and send it a report of the accident. This obligation is set out in Articles 10 and 11 of the Directive.

The Directive applies to new industrial activities, i.e. those established since 8 January 1984, and existing industrial activities, i.e. those commenced since 8 January 1985. However, as regards the application of Article 5 to an existing industrial activity, the Directive provides that only a simplified declaration need be sent to the Competent Authorities (by 8 January 1985) but that this has to be supplemented by 8 July 1989 (Article 9).

2.3.2 Situation in the Member States

This section and the next (2.3.2 and 2.3.3) are based on:

- . information contained in the study done for the Commission by the Institute for a European Environment Policy on the application of the Directive in the various Member States (except Spain and Portugal since they have only recently acceded to the European Communities); and
- . information exchanged between the Commission and the Member States.

Most of this information relates to the actual application of the Directive. The cut-off date was set at 31 October 1987. The date of 1 January 1987 frequently referred to in this section is not a legal deadline set by the Directive but a date the Institute used as a reference base when carrying out the study.

The information for each Member State is set out under the following headings:

- main national laws
- authorities¹
- reports on safety
- on-site emergency plans
- off-site emergency plans
- inspections
- information to be communicated to the public
- notification of accidents
- general obligations.

¹It should be noted that this refers to the various authorities responsible for the application of the Directive.

BELGIUM

MAIN NATIONAL LAWS

- Law of 21 January 1987 on the major-accident hazards of certain industrial activities, as amended on 1 October 1987
- Royal Decree of 6 November 1987
- General Regulation on the protection of work (RGPT); Royal Decree of 1 February 1985
- Decree of 28 June 1985 (Flanders)
- Decree of the Walloon Regional Executive of 11 December 1986
- Law of 8 August 1980 (on the health and safety of workers)
- Law of 10 June 1952
- Law of 5 May 1988 (on the inspection of dangerous or unhealthy premises and premises for noisy or noxious trades)

AUTHORITIES

Competent Authorities:

- Ministry for Public Health and the Environment, Secretariat of State for the Environment
- Ministry of Labour and Employment
- Ministry of the Interior

Implementing Authorities:

- Department for Safety at Work
- Department for Industrial Medicine
- Regional departments for the Prevention of Pollution

REPORTS ON SAFETY

In Belgium reports on safety are required under the Royal Decree of 1 February 1985, which reinforces the General Regulation on the protection of work (RGPT), and the Law of 21 January 1987. The Decree of 6 November 1987, issued in application of Article 4 of the Law, sets out details regarding the form and content of the reports.

For Flanders, the Decree of 28 June 1985 has reorganized the authorization system and provides that a report on safety be annexed to the application to authorize certain installations.

For Wallonia the RGPT has been amended to take into account the effects on the environment.

Two Authorities are responsible for examining the reports on safety, namely the Department for Industrial Medicine and the Department for Safety at Work where on-site safety is concerned, and the Regional Departments for the Prevention of Pollution as regards environmental protection.

By 1 January 1987 no reports on safety had been received but some 80 prior declarations (within the meaning of Article 9(3) of the Directive) had been submitted.

ON-SITE EMERGENCY PLANS

In Belgium on-site emergency plans are regulated by the Royal Decree of 1 February 1985 and the Law of 21 January 1987.

For Flanders the Decree of 28 June 1985 provides that reports on safety should contain information on emergency plans and safety measures.

The on-site emergency plans are attached to the reports on safety. Nevertheless it should be noted that certain large installations already had on-site emergency plans prior to the Directive.

OFF-SITE EMERGENCY PLANS

Prior to the Directive there were no specific provisions requiring the drawing up of off-site emergency plans. There were, however, more general provisions on fire fighting.

Under the Law on major-accident hazards in certain industrial activities, the Minister responsible for disaster relief services is required to ensure that the off-site emergency plans are drawn up but it sets no deadline by when the plans have to be drawn up.

It would seem that existing plans are concerned mainly with protecting the general public.

INSPECTIONS

The installations concerned are inspected by:

- the Technical Inspectorate and the Department responsible for checking safety at work (nationally); and
- the Departments for the Prevention of Pollution which are responsible for carrying out controls on environmental protection (at regional level).

There are quarterly inspections and more thorough annual inspections.

The resources made available for the inspectorate would appear to be regarded as insufficient in terms of technical competence at national level and of staff numbers at regional level.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Prior to the Directive there were no provisions specifically requiring that the public be informed. This gap is now filled by the Law of January 1987 but the details of how it should be implemented (date, method, intervals) remain to be defined.

One specific instance of the public being informed can be quoted. This was the population of the Seneffe industrial estate in December 1986.

NOTIFICATION OF ACCIDENTS

Major accidents have to be notified under the Law on major-accident hazards and the Royal Decree of 1 February 1985. This is a new requirement.

GENERAL OBLIGATIONS

The provisions of Articles 3 and 4 of the Directive are regarded as covered by Laws enacted prior to the Directive and the Decrees of 28 June 1985 (Flanders) and 11 December 1986 (Wallonia).

CONCLUSION

A new Law on major-accident hazards was adopted on 21 January 1987. Royal Decrees are still required to lay down the details of how it is to be implemented.

On-site emergency plans represent one item in the reports on safety. The idea is that off-site emergency plans should be linked with the provisions on communicating information to the public. However, the deadline by when these off-site emergency plans have to be drawn up and the public informed has yet to be determined. Finally, the Royal Decree of 1 October 1987 amending the Law of 21 January 1987 also transposed the provisions of the first amendment to the Directive adopted on 19 March 1987.

DENMARK

MAIN NATIONAL LAWS

- Order No 323 of 7 July 1983 on the working environment
- Fire Law No 365 of 28 July 1983
- Law No 567 of 1 September 1986 on the administration of justice
- Order No 204 of 1 March 1984 (Danish directive on hazards)

AUTHORITIES

Competent Authorities:

- Ministry for the Environment (national Office for Environmental Protection)
- Ministry of Labour (Department for the Industrial Inspectorate)
- Ministry of Justice
- Ministry of the Interior

Implementing Authorities:

- the police
- the fire brigade
- disaster relief services
- local and municipal councils

REPORT ON SAFETY

Reports on safety are required under Order No 204 of 1 May 1984, issued in implementation of the Law on environmental protection, and under Order No 323 of 7 July 1983, issued in implementation of the Law on the working environment. A manual jointly drawn up by the Office for Environmental Protection and the Industrial Inspectorate in 1986 explains manufacturers' obligations vis-à-vis the Authorities and describes the coordinating measures the Authorities are required to take.

By January 1987 some ten reports on safety had been written and some 60 were due to be completed by 8 July 1989.

Although the Authorities were empowered to require reports of this type prior to the Directive, they had not made much use of their powers. The new measures are regarded as an improvement on earlier practice as they are more detailed, mandatory and retroactive.

The reports on safety have to estimate the probability of an accident occurring.

Reports on safety are submitted to the municipal council which sends copies to the district industrial inspectorate, the local fire authority, the local chief of police and the Office for Environmental Protection.

ON-SITE EMERGENCY PLANS

The requirement to draw up on-site emergency plans is not entirely new as, under earlier rules, information on measures for dealing with accidents had to be given.

Manufacturers of new installations have been required to draw up such plans since 7 July 1983. The deadline for existing installations has been set at 1 July 1989. By 1 January 1987 some 5 plans had been drawn up.

On-site emergency plans are annexed to the reports on safety.

OFF-SITE EMERGENCY PLANS

Denmark already had provisions in respect of off-site emergency plans prior to the Directive.

Existing plans - such as disaster relief plans (the responsibility of the police) and action plans (the responsibility of the fire authority) - have therefore not been altered. In theory these documents are accessible to the public.

There are no provisions requiring that the on-site and off-site emergency plans be compatible.

INSPECTIONS

Inspection procedures come under three different Laws, namely the Law on environmental protection, the Law on the working environment and the fire law.

Three separate Authorities are involved in the inspection system, namely the Municipal Council, the Industrial Inspectorate and the Fire Authority.

However, in all cases these Authorities are also responsible for examining the parts of the reports on safety which correspond to their particular jurisdiction.

There are inspection procedure manuals for each of these three areas.

Each of the Authorities conducts inspections at least once a year. The most dangerous premises are given priority. It is generally considered that there are sufficient staff.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

The Danish directive on hazards does not contain any provisions specifically on providing the public with information as the Authorities considered that existing laws already made sufficient provision. There is no specific requirement to communicate information to the public before an accident occurs. Nevertheless, to take one example, the Copenhagen Municipal Council has on several occasions sent persons living close to an installation letters explaining what they should do in the event of an accident.

NOTIFICATION OF ACCIDENTS

Under the Danish directive on hazards manufacturers have to notify all incidents, whereupon the Authorities decide whether it is a major accident.

GENERAL OBLIGATIONS

There are some 200 premises which are subject to the provisions of Articles 3 and 4 of the "Seveso" Directive. They come under the provisions of the Law on environmental protection and the Law on the working environment.

CONCLUSION

Several Authorities are involved in the application of the Directive in Denmark.

On-site emergency plans have to be annexed to reports on safety. Off-site emergency plans are accessible to the public.

If they consider it necessary, the Authorities may call for reports on safety in respect of installations not subject to the provisions of Article 5 of the Seveso Directive.

FRANCE

MAIN NATIONAL LAWS

- Law of 19 July 1976 on installations classified for the purposes of environmental protection
- Decrees of 21 September 1977 and 19 December 1986
- Circular of 28 December 1983
- Circular of 2 August 1985, as amended on 8 July 1986
- Interministerial Circular and Instruction of 12 July 1985, "ORSEC technological hazards"

AUTHORITIES

Competent Authorities:

- Commissioners of the Republic (at Département level)

Implementing Authorities:

- Department for Classified Installations (coming under the Ministry for the Environment)
- disaster relief services (coming under the Ministry of the Interior)
- the mayors

REPORTS ON SAFETY

Certain manufacturers were already required to assess potential dangers prior to the Directive.

Installations likely to cause danger or inconvenience, in particular in respect of public and private health and safety and environmental protection are subject to the laws on installations classified for the purposes of environmental protection (Law of 19 July 1976, Decree of 21 September 1977). Under these laws installations must obtain authorisations or submit declarations, depending on the level of danger or inconvenience that may result from running the installations. There is a nomenclature defining which installations are subject to authorisation and which to declaration. The nomenclature has been so amended as to make installations coming under the provisions of Article 5 of the Directive subject to the authorisation procedure.

Where installations are subject to authorisation, the documentation submitted by a manufacturer with his application for authorisation must include, inter alia, an impact study and an analysis of the danger. Initially the latter formed part of the authorisation procedure for new installations or major modifications to existing ones but, since the entry into force of the Directive, these analyses are also required for existing installations subject to the provisions of Article 5 of the Directive. The deadline for completion of the analyses is fixed locally and individually for each installation, but analyses for all installations have to be completed by 8 July 1989. There are some 320 installations subject to the provisions of Article 5 of the Directive. It is estimated that some 600 analyses have to be completed by 8 July 1989. By 1 January 1987 some 150 had been submitted to the Commissioners of the Republic.

ON-SITE EMERGENCY PLANS

Prior to the Directive only the oil industry was required to submit on-site emergency plans. The ORSEC Instruction of 12 July 1985 and the Circular of 2 August 1985, as amended on 8 July 1986, provide for plans of this type, particularly for installations subject to the provisions of Article 5 of the Directive. The plans, known as internal action plans (Plans d'Opération Interne - POI), are drawn up by the manufacturers using the danger analyses as a basis.

Some one hundred such plans had been completed by January 1987.

OFF-SITE EMERGENCY PLANS

The pre-Directive instructions all concerned the organization of help in the event of a major accident. As it was considered that the existing system needed rejigging, the Circular and Instruction of 12 July 1985 laid down new provisions on the subject. In particular the Instruction required the Commissioners of the Republic to draw up off-site emergency plans - known as individual action plans or PPIs (Plan Particulier d'Intervention) - for each installation involved.

Any expenditure involved in drawing up these plans is borne by the Ministry for the Interior's Department for Disaster Relief.

Very few PPIs had been completed by January 1987 although two thirds of all French Départements already have in place the type of plan required under the previous regulations.

The Instruction of 12 July 1985 provides for consistency between the on-site and off-site emergency plans.

INSPECTIONS

It is considered that there are insufficient inspectors of Classified Installations.

Installations subject to the provisions of Article 5 of the Directive are regarded as having priority and may undergo from 1 to 12 inspections per year.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Prior to the Directive the main method of providing the public with information was via the authorisation procedure for new installations or modifications to existing installations. The documentation submitted by a manufacturer with his application for an authorisation is the subject of a public enquiry lasting a month. However, very few people are aware of this method of providing information on the dangers inherent in an installation.

In connection with all installations subject to Article 5, the Circular of 28 December 1983 and the Instruction of 12 July 1985 provide that, as a precaution, the public shall be given information on what to do in the event of an accident. By January 1985 only one installation had provided information of this type. The practice of distributing small cards informing riverside populations of what alarm systems there are and what precautions to take in the event of an accident is spreading.

NOTIFICATION OF ACCIDENTS

Manufacturers of classified installations have been required to notify accidents since 1977.

Following notification, it is the administration that decides whether the accident is a major one or not.

GENERAL OBLIGATIONS

Installations coming under the provisions of Articles 3 and 4 of the Directive are subject to the laws governing classified installations. Some of these require authorisation whilst others come under the declaration system.

Some adjustments in the nomenclature are still required. In France some 50 000 installations are subject to authorisation and 500 000 to declaration.

CONCLUSION

French legislation on major-accident hazards predates the Directive. It is therefore not surprising to note that there are some differences, e.g. in the definition of "industrial activity". The authorisation procedure covers a much wider field than that coming under Article 5 of the Directive. It is felt that more inspectors are needed.

GREECE

MAIN NATIONAL LAWS

- Law No 1650/1986 on the environment
- Law No 1568/1985 on the health and safety of workers
- Presidential Decrees 4479/1965 and 15/1922
- Law No 4026 of 1912

AUTHORITIES

Competent Authorities

- The Ministry for the Environment
- The Ministry for Health
- The Ministry for Industry
- The Ministry of Labour

Implementing Authorities (to be set up):

- local authorities

REPORTS ON SAFETY

Prior to the Directive there was no specific obligation for a manufacturer to produce a report on safety.

This obligation will now be imposed by Decrees issued in implementation of Law No 1650/1986 on the environment. In particular, the reports are to include information on hazards originating off-site and to describe the consequences for the population and the environment.

ON-SITE EMERGENCY PLANS

The requirement to draw up on-site emergency plans is a new one for manufacturers.

Under the Law of 1986 manufacturers will have to produce plans of this type, although the content has yet to be determined.

By 1 January 1987 no such plans had yet been drawn up.

OFF-SITE EMERGENCY PLANS

The provisions requiring off-site emergency plans also cover on-site plans.

By 1 January 1987 no such plans had yet been drawn up.

The plans must include, in particular, arrangements for protecting the environment and must be consistent with the on-site plans.

INSPECTIONS

Installations are inspected by inspectors from the Ministries of Health, Industry, Labour and the Environment.

Provisions implementing Article 7(2) of the Directive have yet to be drafted.

Priority should be given to the most dangerous installations.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Although the Laws of 1985 and 1986 refer to this point, the details of how to provide the public with information have yet to be worked out.

NOTIFICATION OF ACCIDENTS

This obligation will be formally imposed by texts currently being drafted.

GENERAL OBLIGATIONS

The provisions of Articles 3 and 4 of the Directive are partially covered by the Law of 1985.

CONCLUSIONS

All industrial activity in Greece is controlled through legislation dating from 1912. More recently, the Law of 1985 on the health and safety of workers has transposed some of the provisions of the Directive. But the Law does not make specific provision for measures covering major accidents (Article 3). Neither does it cover people living close to an industrial installation (Article 8). There are no provisions for a system whereby industry can provide the State with information (Articles 4 and 7 of the Directive). The situation will have to be reassessed when the legislation implementing the Law of 1986 on the environment has been drafted.

IRELAND

MAIN NATIONAL LAWS

European Community Regulations of 1986 on the major-accident hazards of certain industrial activities.

AUTHORITIES

- Central competent authority:

The Department of Labour, Industrial Inspectorate

- Local competent authorities: the police

the local authority

the Regional Health Boards

REPORTS ON SAFETY

The requirement for manufacturers to submit reports on safety is a new one.

Where existing installations are concerned, these reports have to be submitted to the Department of Labour's Industrial Inspectorate by July 1989. By January 1987 no report of this type had been submitted. There is a guide on how to draw up the reports.

ON-SITE EMERGENCY PLANS

The new regulations require manufacturers to draw up on-site emergency plans by 1 December 1986. This is a new requirement.

The plans form an integral part of the reports on safety and, in the case of existing installations, have to be completed by the same deadline as the reports on safety.

Most on-site emergency plans have been completed but in many cases the details are still being discussed with the Central Authority.

OFF-SITE EMERGENCY PLANS

These have to be completed by mid-1988 and represent a new requirement for which local authorities have responsibility.

The plans will be annexed to, and form part of, the wider local emergency plans.

INSPECTIONS

The Industrial Inspectorate is responsible for carrying out regular inspections on dangerous installations.

The Inspectorate, whose main duty is to protect human beings, carries out inspections at least once a year, priority going to the most dangerous sites.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

This is a new obligation for manufacturers. The procedure may involve the local authority but the public is generally informed by the manufacturer.

The deadline for meeting this requirement is 1 September 1987.

NOTIFICATION OF ACCIDENTS

Prior to the Directive certain accidents were notifiable under the 1955 and 1980 laws on industrial safety.

Under the new rules all major accidents have to be notified.

GENERAL OBLIGATIONS

Prior to the Directive, general safety measures were partly covered by the 1955 and 1980 Laws on industrial safety and partly by the 1972 Law on dangerous substances.

The new regulations now cover all the general obligations of the Directive.

CONCLUSION

The Directive has been transposed into Irish law by a single text which came into force on 1 September 1986. A Central Authority, the Department of Labour acting through its Industrial Inspectorate, is responsible for application.

The local authorities are responsible for the off-site emergency plans.

ITALY

This section on the application of the Directive in Italy was written before the adoption of the Presidential Decree in February 1988 and therefore does not take into account the provisions of that law.

MAIN NATIONAL LAWS

- Ministry of the Interior:

Decrees: 16 November 1983, 2 August 1984, 11 June 1986

Circulars: 1 December 1982, 11 January 1986, 20 June 1986,
19 December 1986

- Ministry of Health:

Decree: 23 December 1985

Regulation: 22 February 1985

Circular: (Public Health): 1 April 1985

- Prime Ministerial Implementing Order: 18 December 1985

Presidential Decree (Ministry of Labour): 29 July 1982

AUTHORITIES

Competent authorities:

- Committee for the Coordination of Safety Procedures

- Interministerial Coordinating Committee

- The Fire Department's inspectorate

Implementing Authorities:

- The Regional Governments

REPORTS ON SAFETY

The Ministry of Health and the Ministry of the Interior's Fire Department both require separate reports on safety. The Ministry responsible for coordinating civil defence and the Regional Governments are also involved.

The Ministry of Health has set up an Interministerial Coordinating Committee which has adopted a technical manual on safety in industrial activities of a type capable of giving rise to major accidents. The manual has been sent to the manufacturers of the installations concerned and they have been requested to submit the appropriate technical details (as listed in Article 5 of the Directive) by 30 September 1987.

The Ministry of the Interior also requires processes and systems to be analysed for danger and reliability where high-risk installations are to be built or modified. There are several Circulars and Decrees relating to safety reports and the latter are sent to the Fire Department which checks whether the installations comply with the current regulations.

The Ministry for Civil Defence has set up a Committee with responsibility for promoting and checking reports on safety which are based on the danger and reliability analyses. Some of the members of this Committee are also members of the Ministry of Health Committee.

By 1 January 1987 no reports on safety had been submitted.

There are some 350 installations which are subject to the provisions of Article 5 of the Directive.

ON-SITE EMERGENCY PLANS

There are no explicit provisions requiring the drawing up of on-site emergency plans. Nevertheless, certain Decrees Regulations and technical manuals deal with the plans.

Plans of this type form part of the reports on safety but so far no deadline has been set. It is not known how many plans have actually been worked out.

OFF-SITE EMERGENCY PLANS

Although a number of measures refer to off-site emergency plans, there are no specific provisions for transposing the relevant provisions of the Directive into Italian law.

INSPECTIONS

There are no general provisions on the inspection of dangerous installations. The Presidential Decree of 1982 provides for inspections in connection with fire prevention.

The inspectorate (whose inspections are spaced out at roughly three-yearly intervals) is mainly concerned with ensuring public health and safety.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Prior to the Directive there were no laws about providing information to the public.

The Ministry of Health Regulation of 21 February 1985 makes reference to providing information to the public.

The methods to be used and the frequency with which such information is to be provided have not yet been decided.

NOTIFICATION OF ACCIDENTS

Measures on this point have yet to be decided.

GENERAL OBLIGATIONS

The legislation covering the general obligations laid down in the Directive is new (Ministry of Health Regulation of 21 February 1985) and covers some 2 200 sites.

CONCLUSION

The Directive has been transposed only partially into Italian law, mostly in the form of several Decrees and Regulations issued by various Ministries. Several authorities are responsible for the application of the Directive.

LUXEMBOURG

MAIN NATIONAL LAWS

- Law of 10 April 1987 on the major accident hazards of certain industrial activities
- Law of 27 February 1986 on emergency medical aid
- Law of 16 April 1979 on dangerous or unhealthy premises and premises for noisy or noxious trades
- Law of 18 November 1976 on the organization of disaster relief
- Law of 4 April 1974 on the organization of the Works and Mines Inspectorate
- Law of 9 August 1971 on the application and sanctioning of decisions and directives (supplemented by the Law of 8 December 1980)
- Law of 28 August 1924 on health and safety at work

AUTHORITIES

Competent authorities:

- The Interministerial Committee chaired by a representative of the Ministry of Labour and made up of representatives of the Department of the Environment, the Department of Health, the Works and Mines Inspectorate and experts
- The Ministry of Labour

Implementing Authorities:

- National Department for disaster relief
- Department of Health

REPORTS ON SAFETY

Although the Law of 16 April 1979 on classified installations lays down authorization procedures, there were no specific provisions prior to the Directive for drawing up reports on safety.

The new regulations (Law of 1987) now require manufacturers to draw up such reports.

Three installations are involved. By January 1987 none had submitted a report on safety.

ON-SITE EMERGENCY PLANS

Although prior to the Directive there were no specific provisions requiring on-site emergency plans, the authorization procedure required such plans in order to prevent or reduce danger to workers (and the general public and the environment).

The new regulations provide for manufacturers to draw up and finance on-site emergency plans.

These form part of the report on safety.

OFF-SITE EMERGENCY PLANS

Prior to the Directive there was a national emergency system.

The new regulations provide for the National Department for disaster relief to draw up individual action plans (PPIs) and for the Department of Health to take whatever steps are necessary with regard to emergency medical services.

The on- and off-site plans have to be consistent.

By January 1987 no PPIs had been drawn up.

INSPECTIONS

New regulations have been issued to supplement the provisions of the Law of 1974 on the organization of the Works and Mines Inspectorate. The Ministry of Labour is the authority responsible for the inspection of installations. It is considered that more resources should be made available for inspection purposes.

Inspections relating to environmental protection are carried out under the "commodo-incommodo" procedure or following a public enquiry and are conducted with the assistance of the Office for the Environment.

INFORMATION TO BE SUPPLIED TO THE PUBLIC

Although the Law on classified installations includes provisions for informing the public, it will be through the application of the new regulations (which include provisions on the subject) that the public will receive the type of information intended under the Directive.

Although the manufacturer is responsible for providing personnel on his premises with information, the Interministerial Committee will be responsible for providing information off the premises. The ways and means of doing so are currently under discussion.

NOTIFICATION OF ACCIDENTS

The new regulations require all accidents to be notified.

GENERAL OBLIGATIONS

Prior to the Directive, general safety was covered by the Laws of 1979 and 1924. These have now been supplemented by the new regulations. The Interministerial Committee is responsible for ensuring that manufacturers take appropriate steps with regard to safety.

CONCLUSION

Five Ministries (Work, Health, Environment, Safety and Interior) are involved in the application of the Law of 1987.

It should be pointed out that the new Luxembourg regulations include the first amendment to the Directive adopted on 19 March 1987.

NETHERLANDS

MAIN NATIONAL LAWS

- Law on disasters (Stb (Government Gazette) 1985/188)
- Decree on the report on safety (Stb 1981/556)
- Law on nuisances (Stb 1981/410)
- Law on conditions at work (Stb 1980/664)
- Law on general provisions relating to the environment (Stb 1979/442)
- Law on freedom of information (Stb 1978/581)
- Decree on installations (Stb 1972/294)
- Law on air pollution (Stb 1970/580)

AUTHORITIES

Competent Authorities:

- Ministry for Social Services and Employment
- Ministry of Housing, Regional Development and the Environment
- Ministry of the Interior

Implementing Authorities:

- Provinces
- Municipalities

REPORTS ON SAFETY

The 1977 amendment to the Law on safety (consolidated in the 1980 Law on conditions at work) requires manufacturers to draw up reports on safety. These reports, which mainly concern on-site safety have to be drawn up for all processes used in a given installation which means that there will be more reports than installations (280 for some 60 installations). By 1 January 1987 some 60 reports had been drawn up by manufacturers working in consultation with the Industrial Inspectorate.

The industrial activities involved are defined in the 1981 Decree on reports on safety.

The Decree provides that the reports will be spaced out, priority being given to the installations representing the highest risks (particularly installations subject to the provisions of Article 5 of the Directive).

In addition, laws on the environment lay down an authorization system for certain industrial activities capable of causing nuisances or dangers to man or the environment. The documentation submitted by a manufacturer with his application for an authorization must include certain details but does not cover all those required by Article 5 of the Directive.

There is a draft Decree on major-accident hazards which provides that manufacturers of installations subject to the provisions of Article 5 of the Directive must draw up a report on off-site safety in which they have to provide all the details listed in Article 5 of the Directive as well as a quantitative analysis of the dangers.

In the case of new installations this report has to be included in the documentation supplied with the application for an authorization. There will be a reporting deadline for existing installations.

This draft Decree also provides that reports on on-site safety in existing installations subject to the provisions of Article 5 of the Directive must be drawn up by 8 July 1989 at the latest.

ON-SITE EMERGENCY PLANS

There is no specific legal obligation requiring a manufacturer to draw up an on-site emergency plan.

Nevertheless the Industrial Inspectorate may require a manufacturer to provide further information in addition to that contained in the report on on-site safety.

The on-site emergency plan forms part of the report on safety.

OFF-SITE EMERGENCY PLANS

Provisions enacted prior to the Directive and included in the Law on disasters provide for two types of emergency plan:

- general plans covering all emergencies likely to endanger the population (accessible to the public);
- plans for specific emergencies (not accessible to the public).

The Municipal Council is responsible for drawing up the plan and the deadline was 1 March 1987.

By 1 January 1987 all municipalities had general emergency plans but few specific plans had been drawn up.

INSPECTIONS

Installations are inspected by the Industrial Inspectorate (two visits per year on average), the Environment Inspectorate and the Competent Authorities.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Prior to the Directive there were at least five different laws which already provided for communicating information to the public.

The main channels of communication are the authorization procedures and the general emergency plans.

It should be noted that, if the draft Decree mentioned above is adopted, the reports on off-site safety will be available to the public in the course of authorization procedures.

NOTIFICATION OF ACCIDENTS

At present operators notify accidents to the Industrial Inspectorate but the information provided does not include all the points listed in Article 10 of the Directive.

The environment laws do not include a general obligation for manufacturers to notify accidents but certain authorizations for the most dangerous installations include the requirement.

The abovementioned draft Decree requires manufacturers to notify accidents to the Competent Authority and for mayors to set in train the off-site emergency plan procedures.

GENERAL OBLIGATIONS

Prior to the Directive there were 100 000 installations subject to general safety provisions.

CONCLUSION

In the Netherlands there are several separate laws relating to major-accident hazards. Most of them pre-date the Directive and the Dutch approach has been to amend existing legislation. It is expected that a draft Decree will shortly be adopted.

As the on-site emergency plan forms part of the report on safety and the off-site emergency plan includes certain requirements to inform the public, the different measures form a consistent whole.

Nevertheless there is some question as to whether the provisions on informing the public are adequate. On the other hand, more installations in Holland are required to draw up reports on safety than would be the case under Article 5 of the Directive.

FEDERAL REPUBLIC OF GERMANY

MAIN NATIONAL LAWS

- Law on emission control
- Twelfth Decree implementing the Law on emission control
- Second Administrative Order on accident hazards
- Länder laws and administrative measures on disasters

AUTHORITIES

- Federal:
 - . Ministry for the Environment, Nature Conservation and Nuclear Safety
 - . Ministry of Labour and Social Affairs
 - . Ministry for building, Regional Planning and Urban Development
 - . Ministry of the Interior
- Länder:
 - . various ministries and local authorities

REPORTS ON SAFETY

The Federal German Law of 15 March 1974 on emission controls, amended in October 1984, lays down an authorisation procedure for industrial installations capable of causing damage to the environment. The twelfth Decree implementing this law, issued in 1980, lays down general obligations with regard to safety and requires safety analyses for certain specific activities. These are defined by reference to a list of substances and threshold quantities and in terms of local conditions. The safety analysis must contain the details required under Article 5(1) of the Directive. In the case of existing installation manufacturers do not have to submit the analysis to the Authorities (the GAA or Gewerbeaufsichtsamt - industry supervisory authority) unless required to do so.

In practice the 800 reports expected were completed but it would seem that they do not cover the off-site effects of accidents.

ON-SITE EMERGENCY PLAN

Through the regulations on safety and the rules governing insurance for all workers and industrial installations, provisions relating to on-site emergency plans already existed prior to the Directive.

The twelfth Decree and its Administrative Orders have tightened up these provisions.

The on-site emergency plans, which are part of the safety analysis, had already been drawn up by 1983.

OFF-SITE EMERGENCY PLANS

The regulations on off-site emergency plans are the sole responsibility of the Länder. They concern the protection of man and the environment. Their content is laid down in laws passed by the Länder (State Disaster Laws). Generally speaking, these plans are not specifically for dangerous installations but such specific emergency plans may be incorporated in the state disaster plans. Some Länder have recently introduced laws requiring the drawing up of specific plans for installations.

Where exercises have been carried out they have generally highlighted deficiencies as a result of which the plans have been reviewed.

The legislation on emergency plans predates the Directive and was originally introduced to ensure fire protection.

INSPECTIONS

Traditionally, inspections relate to the protection of workers but, since 1974, they have been extended to cover environmental protection.

All installations subject to authorization are inspected.

Nevertheless, in practice priority goes to the most dangerous installations.

The GAA is responsible for monitoring compliance with regulations and for seeing that manufacturers take the necessary safety measures. In some cases experts are called in.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

The public receives information via the authorization procedures. The documents relating to the authorization of new installations or major modifications of existing ones are accessible to the public (subject to the confidentiality of certain documents).

The Länder laws on emergency plans also provide for the public to have access to certain information. The specific emergency plans are not accessible to the public.

It should be noted that some manufacturers have provided information direct to the public.

NOTIFICATION OF ACCIDENTS

The twelfth Decree and the Administrative Orders lay down a three-level gradation of "dangerous incidents" which have to be notified to the GAA.

The fact that the Federal Republic notified the Commission of accidents which occurred in its territory probably arose out of this three-level definition in the twelfth Decree.

GENERAL OBLIGATIONS

Articles 3 and 4 of the Directive cover about 5 times more installations than Article 5.

The Administrative Orders relating to these installations predate the Directive.

CONCLUSION

The Federal German measures implementing the Directive were introduced practically at the same time as the Directive.

Manufacturers of dangerous installations (subject to the twelfth Decree) have had time to produce the reports on safety and the on-site emergency plans.

In respect of some substances there are stricter provisions (lower threshold quantities) than those provided for in the Directive. Nevertheless, there are still some differences between the twelfth Decree and the Directive. For instance, there is no reference to the 500 metre rule or the derogations provided for in certain cases. The question remains whether the provisions on informing the public are adequate.

However, since the accident in Bâle, a proposal amending the twelfth Decree has been drawn up with a view to tightening up certain provisions.

On the practical level it is felt that there should be more and better-qualified inspectors and that there is a need for manuals on drawing up reports on safety.

UNITED KINGDOM

MAIN NATIONAL LAWS

- Law of the European Communities, 1972;
- Health and Safety at Work Act, 1974;
- Regulations on the control in industry of major-accident hazards (CIMAH) 1974.

AUTHORITIES

- Competent Authorities
 - . Health and Safety Executive (HSE)
 - . Local authorities
- Implementing Authorities
 - . Town Councils (or equivalent)
 - . District Councils (or equivalent)

REPORTS ON SAFETY

Although in the absence of the Directive a requirement of this type would have been imposed, the drawing up of reports on safety is a new requirement for industrialists.

Reports on some 270 sites have to be produced before July 1989. By 1 January 1987 some 50 had been transmitted to the HSE. It should be pointed out that the number of reports expected is higher than the number of sites as several of the activities subject to the provisions of Article 5 may be carried out on a single site.

The reports have to contain the information required under Article 5(1) of the Directive as well as facts relating to the management and control of industrial activities.

ON-SITE EMERGENCY PLANS

The obligation to draw up on-site emergency plans has not caused any fundamental changes in practice since the Health and Safety at Work Act (1974) already contained a similar provision. Most of the plans had been drawn up by 1 April 1985, the date set by the CIMAH regulations.

OFF-SITE EMERGENCY PLANS

Prior to the Directive plans of this type were not mandatory and had been drawn up on a purely voluntary basis. They would not necessarily have met the requirements of the Directive.

Most of the off-site emergency plans had been drawn up by 1 October 1985. (the date set by the British regulations) and by 1 January 1987 they had been completed for all but one town.

Although some of the plans make provision for environmental protection, they are mostly concerned with protecting human beings.

INSPECTIONS

Installations are inspected by the Factory Inspectorate (FI) and the Health and Safety Executive (HSE).

Priority is given to the most dangerous installations. It is considered that the inspectorate is understaffed. The HSE, which was originally responsible for protecting human beings, acquired new responsibilities when it became the Competent Authority responsible for implementing regulations partly concerned with environmental protection.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

Providing the public with information is a new departure in the United Kingdom. The regulations require the public (within an area defined by the HSE) to be informed by 1 January 1986. In practice they were so informed, generally by means of letters from the District Council or leaflets, the information for which was provided by the manufacturer of the installation. In certain cases, however, the District Council did not want to be involved in the process and the manufacturers informed the public direct.

NOTIFICATION OF ACCIDENTS

All significant chemical accidents are notified to the HSE.

After analysing the information, the HSE decides whether the accident is a major accident of the type that has to be notified to the Commission.

GENERAL OBLIGATIONS

All of industry in Britain has been subject to general safety measures since the Health and Safety at Work Act of 1974.

The CIMAH regulations require the manufacturer to be able to prove "at any time" that he has taken measures to ensure the safety of his installation. This regulation came into force some 3 months after the date set by the Directive. It is not known how many premises are involved.

CONCLUSION

In the United Kingdom the Directive is implemented by a single text which entered into force fully on 1 April 1985 and the implementation of which is monitored by a single Competent Authority (the HSE) in the majority of installations.

It should be noted that, prior to the Directive, the United Kingdom authorities had already decided to draft regulations on industrial hazards and that they decided to await adoption of the Directive in order to ensure full compliance. With very few exceptions, the CIMAH regulations transpose the Directive word for word.

It is considered that there are too few inspectors.

Northern Ireland has its own regulations but these are identical to the British CIMAH regulations.

2.3.3 Summary

REPORTS ON SAFETY

1. Before the Directive was adopted, national laws in various Member States already required reports on safety.
2. Since, under the Directive, the reports on safety for existing installations coming under the provisions of Article 5 do not have to be produced until 8 July 1989 at the latest (subject to a simplified declaration having been made), it is not surprising that the Competent Authorities had not yet received very many by 1 January 1987. In fact, in Belgium, Greece, Italy, Ireland and Luxembourg the Authorities had received none at all.

France, the United Kingdom and the Netherlands have arranged for the reports to be spaced out up to 8 July 1989.

It appears that in the Federal Republic of Germany most of the reports have already been completed. It should be noted that here the automatic transmission of safety reports to the Competent Authorities is not mandatory.

3. The number of installations subject to Article 5 varies considerably from one Member State to the next. The number of sites involved in each Member State is given in Annex I. In some Member States there will more safety reports than the number of sites concerned as the Competent Authority may require safety reports for all Article 5 activities carried out on a single site.

In some cases (e.g. in the United Kingdom and the Federal Republic of Germany) individual safety reports as well as an overall safety report may be required for very large industrial complexes.

4. In theory the information in the reports should be that required under Article 5 of the Directive. Nevertheless, there are differences between the Member States as regards the type of information and the form in which it is supplied.

Generally speaking, the Competent Authorities draw up manuals to help operators in drafting their reports on safety. This should guarantee a certain degree of consistency within a single Member State.

The question remains whether there should be a qualitative as well as a quantitative analysis of the dangers.

In Denmark, France, Greece, Ireland, the Federal Republic of Germany, Luxembourg and the United Kingdom the safety reports have to contain information on the effects of accidents off site. However, it would appear that in the Federal Republic off-site effects are rarely described in practice.

5. Reports on safety are not generally accessible to the public. In France and Denmark they are, subject to the confidentiality of certain information.
6. In most Member States, as far as can be judged at present, the requirement to draft reports on safety, as provided by the Directive, is generally considered an improvement on earlier practice. The general feeling is that the reports are better structured, more precise and more detailed in their approach towards identifying, evaluating and controlling dangers.

So far, however, there has been no change in existing practice in the Federal Republic or the Netherlands.

ON-SITE EMERGENCY PLANS

1. Almost all the Member States have introduced, or are going to introduce, new laws on on-site emergency plans. This does not mean that none of the Member States had plans of this type prior to the Directive but that existing provisions were either too general or concerned a given industrial sector. Besides, some manufacturers had drawn up plans of this type on their own initiative.
2. Overall, the Member States divide into those which have decided to make the on-site emergency plan an integral part of the report on safety and those which have decided on two separate documents. In Denmark, Greece and Ireland the on-site emergency plan is not an integral part of the report although it may refer to the latter. In France, Italy, Luxembourg, Belgium and the Netherlands the plan is, or will be, an integral part of the report, whilst in the United Kingdom and the Federal Republic of Germany there is a choice.
3. The deadline for completion of the on-site emergency plans for existing installations varies from one Member State to the next. In the Federal Republic the requirement for such plans has existed since 1980 and the deadline for drawing them up was 1983. In the United Kingdom and Ireland the deadline were 1 April 1985 and 1 December 1986 respectively. Belgium, France and Denmark have set a deadline of 8 July 1989.
4. In all cases manufacturers are responsible for drawing up the plans.
5. By January 1987 only France, the Federal Republic, the United Kingdom and Ireland possessed a substantial number of such plans. In Denmark and the Netherlands fewer had been completed and in the other Member States there were none.

OFF-SITE EMERGENCY PLANS

1. Most Member States have had to introduce new laws in respect of off-site emergency plans although the United Kingdom, Luxembourg, the Federal Republic of Germany and Denmark already had some general provisions in this field.

One of the important consequences of the application of the Directive has been the requirement to draw up plans for specific installations with a view to protecting the environment as well as man.

2. Generally, local authorities or emergency services are responsible for seeing that the plans are drawn up. In some instances several administrative levels are involved.
3. The deadlines vary from Member State to Member State. Whilst Denmark had plans of this type prior to the Directive, the deadlines for completion were set at 1 October 1985 in the United Kingdom, the end of 1987 in Ireland and 8 July 1989 at the latest in France.
4. In some Member States (e.g. France, Greece, the Netherlands, the United Kingdom), the geographical area covered by an emergency plan of this type is determined by the reports on safety. Elsewhere the area is the same as that within the town or city boundaries.
5. In some Member States the off-site emergency plans are accessible to the public, as is the case in France and, for some plans, in the Netherlands, the Federal Republic, Denmark and the United Kingdom.
6. It would seem logical to provide for the compatibility of the off-site emergency plans with the on-site plans and the reports on safety, as is the case in the majority of the Member States (France, Greece, Ireland, Luxembourg and the United Kingdom). Nevertheless, there is no explicit requirement to this effect in the Federal Republic, the Netherlands, Italy, Denmark or Belgium.
7. In the past, emergency plans generally centred on protecting man rather than the environment. As a result of the implementation of the Directive, the off-site emergency plans should redirect the emphasis to environmental protection.

INSPECTIONS

1. There were inspection procedures in all the Member States prior to the Directive but often they related to industry in general and did not deal specifically with dangerous installations. Some Member States have therefore had to amend their laws to make existing provisions more explicit or to take environmental protection into account.
2. Installations subject to the provisions of Article 5 are clearly regarded as having priority.
3. In all Member States except Denmark, the Netherlands and Italy the inspectorate is regarded as understaffed. In the United Kingdom, Luxembourg, Greece, the Federal Republic of Germany, France and Belgium there is dissatisfaction not only with the number of inspectors but also with their technical means.

INFORMATION TO BE COMMUNICATED TO THE PUBLIC

1. The majority of the Member States have introduced, or will be introducing, new provisions with regard to informing the public. The Federal Republic of Germany and Denmark have taken existing laws as their basis.
2. Two different approaches have been adopted for informing those members of the public likely to be affected by an accident:

- "active" information which is disseminated (e.g. by letter or leaflet);
- "passive" information provided by making available to the public documents such as authorizations or licences to operate installations.

The information provided generally depends on the information supplied by the manufacturer.

Where information is disseminated the methods used vary from one Member State to the next. Local councils are generally involved. In some Member States committees have been specifically set up for the purpose. In the Federal Republic and the United Kingdom industrialists may under certain circumstances directly inform the public, and they generally do so in Ireland.

Various methods have been used for the "active" information process, e.g. leaflets, notices in newspapers, local meetings. Generally, it is the manufacturer who bears the cost.

3. The geographical area within which the public has to be informed is defined in different ways in different Member States. Generally it coincides with the boundaries of the local community. In France it is the same as the area defined in the off-site emergency plan whilst in the United Kingdom it is decided by the Health and Safety Executive.

4. The date by when the public has to be informed has not yet been decided in Belgium, Greece, Italy or Luxembourg. Some Member States have laid down dates which are staggered up to 8 July 1989, e.g. 1 January 1986 in the United Kingdom, 1 September 1986 in Ireland and 8 July 1989 at the latest for existing installations in France.

5. It is too early to discuss the effectiveness of the procedures used for informing the public since, in some cases, they were only recently introduced.

NOTIFICATION OF ACCIDENTS

1. Most of the Member States have introduced new provisions to comply with Article 10 of the Directive.

France and the Federal Republic of Germany have based their provisions on laws predating the Directive.

Before the Directive, Belgium, Greece and Italy had no provisions specifically on the notification of major accidents.

2. It is interesting to see how the Member States define the term "major accident".

Neither France nor the Federal Republic has a precise definition of the concept. In France all incidents or accidents capable of harming man or the environment have to be notified to the Authorities whilst the Federal Republic has a system by which incidents are classified in one of three different categories.

Other Member States (e.g. Denmark, the Netherlands, the United Kingdom and Ireland) have practically taken over the wording of the Directive.

In France, Denmark and the United Kingdom it is the Authorities which decide whether an accident is to be qualified as major.

3. Annex II of this report gives the number of major accidents officially notified to the Commission by the Member States. Some of the accidents occurred before the entry into force of the Directive and were voluntarily notified by some of the Member States.

It should be pointed out that all industrial installations subject to the provisions of the Directive, not just those covered by Article 5, are required to notify major accidents.

3. AMENDMENTS TO THE DIRECTIVE

3.1 First amendment: Directive 87/216/EEC of 19 March 1987

On 19 March 1987, in accordance with Article 19 of the Directive of 24 June 1982 and following a proposal from the Commission,¹ the Council adopted a revision of Annexes I, II and III² which will come into force on 24 September 1988.

This revision, which is restricted to some entries and some threshold quantities laid down in the Annexes, was necessary if some technical errors and inaccuracies in the Annexes were to be corrected, and useful if a more balanced and effective implementation of the Directive was to be ensured.

It should be pointed out that this is a first limited revision because, at the time the Commission was drafting the proposal, the Directive had been in force only for a short period. Experience and knowledge acquired through the Directive as regards measures for preventing major accidents and limiting their consequences was still rather limited.

The amendments to Annex I meant that it was possible to clarify the wording in order to avoid misunderstandings and possible distortions in the implementation of the Directive in the Member States.

The amendments to Annexes II and III were partly dictated by the need to reinforce the provisions of the Directive concerning some of the industrial activities which involved, or may involve, some particularly dangerous substances (chlorine, phosgene, methyl isocyanate, etc.).

Several further amendments gave more explicit definitions of some substances and fixed corresponding threshold quantities which more clearly reflected the different degrees of hazards posed by the various types of these substances or groups of substances (e.g. ammonium nitrate and nickel and cobalt compounds).

Finally, certain obvious omissions were corrected (liquid oxygen was added to Annex III and sulphur trioxide to Annexes II and III).

¹ OJ of 26.11.1985, p. 9.

² OJ of 28.3.1987, p. 36.

3.2 Proposal for an amendment relating to the storage of dangerous substances and communicating information to the public

On 24 November 1986, following the accident which occurred in Bâle (Switzerland) on 1 November 1986, the Environment Council adopted a Resolution inviting the Commission inter alia to review the existing Community measures for preventing major accidents and limiting their consequences and, if necessary, to present appropriate proposals.

On 11 December Parliament adopted five Resolutions in which it urged the Commission in particular to monitor the application of the Directive of 24 June 1982 and reinforce the requirement on the storage of dangerous chemicals.

In addition, on 18 December 1986 the Commission convened a special meeting of the Committee of Competent Authorities* - which is responsible for the Directive - and it concluded that new measures were needed to cover the isolated storage of dangerous substances.

In consultation with the Committee, the Commission prepared an amendment to this effect. The proposal was adopted by the Commission on 8 March 1988 and then submitted to the Council.

In this second amendment to the Directive the Commission also proposed strengthening the provisions on communicating information to persons likely to be affected by a major accident.

3.3 Draft fundamental revision

When more experience has been gained in implementing the Directive and it is possible to decide what amendments are needed to improve the prevention of major accidents and limit their consequences, the Commission intends to propose a fundamental revision of the Directive, and particularly its Annexes, on the basis of systematic criteria. With this aim in view, the Commission earlier awarded two studies on the subject to consultants and a third is now under way.

Nevertheless, the possibility of specific revisions is not excluded. When the first amendment was adopted, the Commission stated that it would keep a close watch on the situation as regards the substances monitored under the Directive and that it would present proposals with a view to making amendments to the substances, if necessary, before the abovementioned fundamental and systematic revision.

* See Section 4.

4. COMMITTEE OF COMPETENT AUTHORITIES

Since the entry into force of the Directive on 8 January 1984, the Commission has arranged regular meetings with the Committee of Competent Authorities which is responsible for implementing the Directive (the fifteenth meeting was held in February 1988).

These meetings cover all questions concerning the Directive and its implementation. Information, opinions and experience are exchanged to ensure that the best approach and common standards are used in the practical implementation of the Directive. Legal and technical matters are also covered by the Committee. The following are examples:

- Information is exchanged on the national inventory of industrial activities subject to the provisions of Article 5 of the Directive.

By 1 February 1988, ten of the twelve Member States had submitted their inventories to the Commission (see Annex I).

- Guidelines on the kind of information to be communicated to the public have been drawn up*.
- Guidelines have been drawn up on interpreting the concept of a major accident (see Annex III)*.
- A model form for reporting major accidents has been drawn up.
- Current national provisions on the domino effect have been examined (i.e. provisions relating to dangerous industrial activities carried out in close proximity to each other).

Since 1985 these Committee meetings have enabled the national Competent Authorities to share practical methods of implementing the Directive in their own country by presenting examples of actual industrial activities covered by the Directive. This provides a forum for exchanging information on technical measures applied in different dangerous installations and has given the Committee an opportunity to examine the storage of phosgene, chlorine, natural gas and liquefied petroleum gas (LPG).

In case of need, the Committee can be rapidly convened. Two special meetings were organized after the accidents at Bhopal and Bâle to examine the consequences of the accidents and the possible implications of similar accidents in the Community.

* The guidelines formulated in the framework of this Committee are not of a binding juridical character.

5. OTHER COMMISSION ACTIVITIES

5.1 Seminars for national inspectors

To ensure that common standards are established in the course of implementing Community Law, the Commission regularly organizes seminars for the national inspectors responsible for on-site control of the provisions arising out of the Directive. During these day-long seminars organized in conjunction with the national Competent Authorities, technical matters relating to safety and hazard evaluation are discussed. By December 1987, five seminars had already been held, namely in Brussels (December 1985), Berlin (June 1986), Paris (December 1986), Athens (September 1987) and London (December 1987). Further seminars will be held in Denmark (June 1988), Luxembourg (November 1988) and the Netherlands (spring 1989).

From 4 to 6 November 1987 the Commission and the Ispra Joint Research Centre organized a conference on emergency plans to allow comparisons to be made and lessons learned from the Member States' experience on the subject.

5.2 Data banks

Under Article 12 of the Directive the Commission has set up a data bank on major accidents occurring in the Community. It is known as MARS (Major Accident Reporting System) and is based on the accident reports submitted by the Competent Authorities and drawn up using the major accident reporting form. The data bank contains, in particular, analyses of accidents and descriptions of the emergency measures taken. It is at the disposal of the national governments and may be used for the purposes of prevention. By 22 February 1988, 34 accidents had been notified (see Annex II).

For the dangerous chemicals (toxic, explosive and flammable) covered by the Directive, the Commission is also gathering physical and chemical, toxicological and ecotoxicological data as well as information on any accidents that occur and the type of emergency measure to be taken. This information will be at the disposal of the Member States.

6. CONCLUSIONS

1. The Commission will continue to ensure that the provisions of the Directive, and any amendments, are transposed into national law.
2. The fourth action programme of the European Communities on the Environment (1987-1992) provides for the Commission to submit a proposal for a Directive to standardize and rationalize the general requirement to submit reports on the application of current directives and to associate the Member States more closely in the drafting of the three-yearly reports on the state of the environment in the Community. Work should therefore continue on analysing and implementing the provisions arising from the Directive of 24 June 1982. It would also be very useful to reassess the situation after 8 July 1989, a deadline laid down in some of the Directive's provisions on existing installations.
3. More particularly in connection with providing information to the public, the Commission has drafted a proposal amending the Directive and aimed at reinforcing the provisions on this point. The proposal provides in particular that information be provided regularly to persons concerned, without their having to ask for it. The items of information to be provided are detailed in a new Annex to the Directive.
4. The Commission also undertakes to continue working with the Member States and to pursue the various activities initiated in connection with preventing major accidents and limiting their consequences, in as far as these activities help to harmonize the national provisions on the subject. The main types of activity involved are the meetings of the Committee of Competent Authorities, the seminars for national inspectors and the analysis of accidents. Further guidelines may be issued e.g. on drafting reports on safety and working out emergency plans.

Number of sites subject to the provisions of Article 5
of the Directive

Member State	Number of <u>sites</u> subject to the provisions of Article 5		
	Annexes I and III	Annex II (separate storage)	Total
Belgium*	68	25	93
Denmark**	53	15	68
Spain**			300
France*	303	19	322
Greece***			10
Ireland*	45	5	50
Italy*	284	67	351
Luxembourg*	0	3	3
Netherlands*	43	22	65
Portugal*	22	11	33
Federal Republic of Germany*	195	88	283
United Kingdom*	200	83	283
Total			1861

Source: *List sent to the Commission by the Competent Authority.

**Estimate by the Competent Authority.

***Estimate made by Commission consultants.

Note : The figures in this table correspond to a number of sites. In some Member States the number of notifications required will be higher than the number of sites because several industrial activities subject to the provisions of Article 5 may in fact be carried out on a single site.

Number of accidents notified as of 22 February 1988

under Article 11(1) of the Directive

Member State	Number of notified accidents* which occurred at installations subject to the provisions of Articles 3, 4 or 5 of the Directive
Belgium	1
Denmark	3 ¹
Spain	0
France	5
Greece	0
Ireland	0
Italy	1
Luxembourg	0
Netherlands	1
Portugal	0
Federal Republic of Germany	14 ²
United Kingdom	9
Total	34

* Some Member States notified accidents that had occurred before 8 January 1984, the date when the Directive entered into force.

¹ Of which one occurred before 8 January 1984.

² Of which 7 occurred before 8 January 1984.

GUIDELINES FOR INTERPRETING THE CONCEPT OF "MAJOR ACCIDENT"

"Major accident" means:

An occurrence such as a major emission, fire or explosion resulting from uncontrolled developments in the course of an industrial activity, leading to a serious danger to man, immediate or delayed, inside or outside the establishment, and/or to the environment, and involving one or more dangerous substances.

The following guidelines should be used to determine whether an occurrence such as a major emission, fire or explosion which results during an industrial activity as defined in Article 1.2(a), and which involves one or more dangerous substances as defined in Article 1.2(d), has to be considered a major accident.

GUIDELINES FOR INTERPRETING THE CONCEPT OF "MAJOR ACCIDENT" (contd)

1. A major accident is a sudden, unexpected, unplanned event, resulting from uncontrolled developments during an industrial activity, which causes, or has the potential to cause, serious adverse effects, immediate or delayed (death, injuries, poisoning or hospitalization), to a number of people inside the installation and/or to persons outside the establishment.

2. A major accident is a sudden, unexpected, unplanned event, resulting from uncontrolled developments during an industrial activity, which causes or has the potential to cause significant damage to crops, plants or animals, or significant contamination of land, water or air.

3. A major accident might be a sudden, unexpected, unplanned event, resulting from uncontrolled developments during an industrial activity, which for safety reasons sets in motion an emergency intervention outside the establishment (e.g. evacuation of local population, stopping of local traffic).

4. A major accident might be a sudden, unexpected, unplanned event resulting from uncontrolled developments during an industrial activity which for safety reasons results in significant changes in the process operating conditions, such as stoppage or suspension of normal work in the plant concerned for a significant period of time.