

**Implementation of the National Plan for  
Approximation of Environmental Legislation**

*A project for Albania funded by the European Union*

**Draft**

**Law on the Control of Major Industrial Accident Hazards involving  
dangerous substances\***

**Draft 3 version 2**

**07.06.2011**

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\* This Law transposes fully Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, as amended by Regulation EC/1882/2003, Directive 2003/105/EC and Regulation EC/1137/2008



**REPUBLIC OF ALBANIA  
THE ASSEMBLY**

**Draft 3 version 2**

**07.06.2011**

**L A W**

No \_\_\_\_\_, dated \_\_\_\_\_

**LAW**

**ON THE CONTROL OF MAJOR INDUSTRIAL ACCIDENT  
HAZARDS INVOLVING DANGEROUS SUBSTANCES (1)**

Pursuant to the Article 78,83 item 1 and Article 174  
of the Constitution, upon the proposal of the Council of  
Ministers,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

HAS DECIDED:

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\* This Law transposes fully Directive 96/82/EC on the control of major-accident hazards involving dangerous substances, as amended by Regulation EC/1882/2003, Directive 2003/105/EC and Regulation EC/1137/2008

## Chapter 1. General Provisions

### Article 1. Purpose

1. The purpose of this Law is to prevent major accidents which involve dangerous substances, and the limitation of their consequences for humans and the environment, so as to ensure a high level of protection.

### Article 2. Definitions

1. The following terms have the following meanings:
  - (a) “**Competent Authority**” shall be construed in accordance with Article 3;
  - (b) “Health authority of the area” is the Regional Primary Healthcare Department.
  - (c) “**control**” in relation to a person means control in the course of a trade, business or other undertaking carried out by him;
  - (d) “**dangerous substance**” means a substance, mixture or preparation,
    - (i) listed in column 1 of Part 1 of Annex I, or,
    - (ii) within a category specified in column 1 of Part 2 of Annex I, and present as a raw material, product, by-product, residue or intermediate, including those substances which it is reasonable to suppose may be generated in the event of accident;
    - (i) “civil **emergency services**” has the same meaning as in the Law no.8756, dt. 26.03.2001 “On civil emergencies” changed.
  - (e) “**establishment**” means the whole area under the control of the same operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities;
  - (f) “**existing establishment**” means an establishment whose operation commenced before the coming into force of this Law, and which, on the coming into force of this Law, is an establishment to which this Law applies;
  - (g) “**hazard**” means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health and/or the environment;
  - (h) “**installation**” means a technical unit within an establishment in which dangerous substances are, or are intended to be, produced, used, handled or stored, and it includes,
    - (i) equipment, structures, pipework, machinery and tools,
    - (ii) railway sidings, docks and unloading quays serving the installation, and
    - (iii) jetties, warehouses or similar structures, whether floating or not,

and which are necessary for the operation of the unit;

- (i) “**lower tier establishment**” means an establishment where a dangerous substance listed in column 1 of Parts 1 or 2 of Annex I is present in a quantity equal to or exceeding the quantity listed for that dangerous substance in column 2 of those Parts but less than the quantity listed for that dangerous substance in column 3 of those Parts;
  - (j) “**major accident**” means an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of the operation of any establishment which is subject to this Law, and leading to serious danger to human health and/or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;
  - (k) “**Ministries**” means the Ministry in charge of worker health and safety, ministry in charge of civil emergencies, ministry in charge of health and the Ministry in charge of environmental protection, and “**Ministers**” shall be construed accordingly;
  - (l) “**new-entry establishment**” means an establishment which, after the coming into force of this Law, becomes subject to any Articles in this Law by reason of any increase in the quantity of dangerous substances present there;
  - (m) “**operator**” means the natural or legal person who is in control of the operation of an establishment or installation or who has been given decisive economic power in the technical operation thereof;
  - (n) “**risk**” means the likelihood of a specific effect occurring within a specified period or in specified circumstances;
  - (o) “**storage**” means the presence of a quantity of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock.
  - (p) “**upper tier establishment**” means an establishment where a dangerous substance listed in column 1 of Parts 1 or 2 of Annex I is present in a quantity equal to or exceeding the quantity listed for that dangerous substance in column 3 of those Parts.
  - (q) “**Local government unit**” has the meaning given by Law no. dt. “On local government and decentralization”.
2. Any reference in this Law to the presence of dangerous substances means a reference to the actual or anticipated presence of such dangerous substances in the establishment or the presence of those which it is reasonable to believe may be generated in the event of accident, in quantities equal to or in excess of the thresholds in Parts 1 and 2 of Annex 1.
  3. For the purposes of this Law and as regards any new-entry establishment, any reference in any Article to the start of operation of an establishment, shall be a

reference to the time when that new-entry establishment first becomes so subject.

### **Article 3. Competent Authorities.**

1. The Ministry in charge of operational health and safety (department of planning and response to civil emergencies), the ministry in charge of health, the ministry in charge of civil emergencies and the ministry in charge of environment acting within their respective spheres of competencies, shall be responsible for the implementation of this Law (hereinafter called collectively the “Competent Authority”).
2. The National Environment Inspectorate, the National Sanitary Inspectorate and the National Labour Inspectorate, acting within their respective competencies, shall be responsible for inspection and compliance of this Law (hereinafter called collectively the “Inspection Authority”).

### **Article 4. Scope**

1. This Law shall apply to any upper tier or lower tier establishment, except that Articles 9-15 shall apply only to an upper tier establishment.
2. This Law shall apply without prejudice to legislation on the health and safety of workers at work.
3. Where, by reason of any change in:
  - a. The classification of a dangerous substance (as referred to in note 1 of Part 2 of Annex I); or
  - b. Knowledge of what dangerous substances may be generated during the loss of control of an industrial chemical process;the area of land on which the dangerous substance is present becomes an establishment after the coming into force of this Law (a new-entry establishment), any requirement imposed by this Law on an operator which is to be performed by him before an establishment starts to operate shall apply to the operator of the new-entry establishment as if that requirement had to be performed within three months after the change in classification takes effect or the change in knowledge occurs.

### **Article 5. Exclusions**

1. This Law shall not apply to:
  - a. Any military establishment, installation or storage facility;
  - b. Hazards created by ionising radiation;
  - c. The transport of those dangerous substances and their intermediate temporary storage by road, rail, inland waterways, sea or air, outside the establishments covered by this Law, including their loading and

unloading and transport to and from another means of transport at docks, wharves and marshalling yards;

- d. The transport of these dangerous substances in a pipeline or pumping station outside the establishments covered by this Law;
- e. The activities of the extractive industries concerned with exploration for, and the extraction and processing of, minerals in mines and quarries or by means of boreholes, with the exception of chemical and thermal processing operations and storage related to those operations which involve dangerous substances;
- f. The activities of the off-shore extractive industries concerned with exploration for, and the extraction and processing of, minerals including hydrocarbons;
- g. Waste landfill sites, with the exception of operational tailings disposal facilities, including tailing ponds or dams, containing dangerous substances, in particular when used in connection with the chemical and thermal processing of minerals.

## **Chapter 2. General Obligations**

### **Article 6. General Duty on operators**

1. Every operator shall take all measures necessary to prevent major accidents and to limit their consequences to humans and the environment.
2. Every operator is under a duty to prove to the Competent Authority and/or the Inspection Authority at any time and in particular for the purposes of the inspections and investigations set out in Article 22, that he has taken all the measures necessary as specified in this Law

### **Article 7. Notifications**

1. Within a reasonable period of time [*note that the directive refers to a 'reasonable period of time', but does Albanian legislation requires that a more specific time period be imposed?*] prior to the start of construction of a new establishment the operator of the establishment shall send to the Competent Authority a notification containing the information specified in Paragraph 4.
2. Within a reasonable period of time prior to the start of operation of a new establishment the operator of the establishment shall send to the Competent Authority a notification containing the information specified in Paragraph 4,

except that this Paragraph shall not require the notification to contain information already contained in a notification sent pursuant to Paragraph 1 if that information is still valid.

3. Within one year of the entry into force of this Law the operator of an existing establishment shall send to the Competent Authority a notification containing the information specified in Paragraph 4.
4. The notification required by Paragraphs 1, 2 or 3 shall contain the following information:
  - a. the name or trade name of the operator and the full address of the establishment concerned;
  - b. the registered place of business of the operator, with the full address;
  - c. the name or position of the person in charge of the establishment, if different from sub-paragraph (a);
  - d. information sufficient to identify the dangerous substances or category of dangerous substances involved;
  - e. the quantity and physical form of the dangerous substance or substances involved;
  - f. a description of the activity or proposed activity of the installation or storage facility;
  - g. details of the elements of the immediate environment of the establishment liable to cause a major accident or to aggravate the consequences thereof.
5. The operator shall immediately inform the Competent Authority in the event of:
  - a. there being any significant increase in the quantity of dangerous substances notified under this Article;
  - b. there being any significant change in -
    - (i) the nature or physical form of the dangerous substances so notified,
    - (ii) the processes employing them, or
    - (iii) any other information provided to the Competent Authority in respect of the establishment;
  - c. Article 9 on safety reports ceasing to apply to the establishment by virtue of a change in the quantity of dangerous substances present there;



- d. there being any modification of the establishment or an installation in the establishment which could have significant repercussions on major accident hazards; or
  - e. permanent closure of an installation in the establishment.
6. The Government, acting on a joint proposal of the Ministers, shall adopt regulations establishing a format for notifications.

### **Article 8. Major accident prevention policy**

1. Every operator of a lower-tier establishment shall prepare and keep a document setting out his policy with respect to the prevention of major accidents (the major accident prevention policy document).
2. The policy referred to in Paragraph 1 shall be designed to guarantee a high level of protection for humans and the environment by appropriate means, structures and management systems.
3. The major accident prevention policy document shall:
  - a. Take account of the principles specified in Paragraphs 1 and 2 of Annex II; and
  - b. Include sufficient particulars to demonstrate that the operator has established a safety management system which takes account of the principles specified in Paragraphs 3 and 4 of Annex II.
4. For new-entry lower tier establishments the major accident prevention policy document shall be prepared without delay, and in event within 3 months after the date on which the requirements of this Law apply to that establishment.
5. In the event of the modification of the lower tier establishment or installation, the process carried on there, or the nature or quantity of dangerous substances present there which could (in each case) have significant repercussions with respect to the prevention of major accidents, the operator shall review and where necessary revise the major accident prevention policy document.
6. The operator shall implement the policy set out in his major accident prevention policy document.
7. The major accident prevention policy document shall be made available to the Competent Authority and or the Inspection Authority.

## **Chapter 3. Safety Reports**

## Article 9. Safety Report

1. Within a reasonable period of time [*note – does a more exact time period be required?*] prior to the start of construction of an upper-tier establishment, the operator of the establishment shall, subject to Paragraph 11, send to the Competent Authority a report containing information which is sufficient for the purpose specified in Paragraph 3(a) of Part 1 of Annex III and comprising at least such of the information specified in Part 2 of Annex III as is relevant for that purpose.
2. The report referred to in Paragraph 1 may comprise of more than one document sent to the Competent Authority at different times within the period referred to in that paragraph.
3. Nothing in Paragraph 1 shall require the report to contain information which it would not be reasonable to expect the operator to have at the time of sending the report.
4. Without prejudice to the requirements of Article 21 on prohibition of use, an operator shall ensure that the construction of an upper tier establishment is not started until he has received from the Competent Authority the conclusions of its examination of the report sent pursuant to Paragraph 1.
5. Within a reasonable period of time [*note – does a more exact time period be required?*] prior to the start of operation of an upper tier establishment, the operator shall, subject to Paragraph 11, send to the Competent Authority a report containing information which is sufficient for the purposes specified in Part 1 of Annex III and comprising at least the information specified in Part 2 of Annex III, except that it shall not be required for the report to contain information already contained in the report sent pursuant to Paragraph 1 if that information is still valid.
6. Without prejudice to the requirements of Article 21 on prohibition of use, an operator shall ensure that the operation of an upper tier establishment is not started until he has received from the Competent Authority the conclusions of its examination of the report sent pursuant to Paragraph 4.
7. Within 2 years after the coming into force of this Law, the operator of an existing upper tier establishment shall, subject to Paragraph 11, send to the Competent Authority a report containing information which is sufficient for the purposes specified in Part 1 of Annex III and comprising at least the information specified in Part 2 of Annex III.
8. The operator of a new-entry upper tier establishment shall without delay, and in any event within one year after the date on which this Law shall apply to the establishment, subject to Paragraph 11, send to the Competent Authority a report containing information which is sufficient for the purposes specified in Part 1 of Annex III and comprising at least the information specified in Part 2 of Annex III.

9. Without prejudice to the requirements of Article 21 on prohibition of use, an operator shall ensure that the operation of an upper tier establishment to which Paragraphs 7 or 8 apply is not continued after the date referred to in those Paragraphs until he has received from the Competent Authority the conclusions of its examination of the report sent pursuant to Paragraph 7 or 8 as the case may be.
10. All or part of the information required to be included in a safety report may be so included in a safety report by reference to information contained in another report sent to the Competent Authority pursuant to a requirement imposed by any other legislation.
11. Where it is demonstrated by the operator of an upper tier establishment to the satisfaction of the Competent Authority that particular dangerous substances present at that establishment, or any part thereof, are in a state incapable of creating a major-accident hazard, then the Competent Authority may in writing and in accordance with the criteria set out in Part 3 of Annex III, limit the information required to be in the safety report for the establishment to those matters which are relevant to the prevention of residual major accident hazards and the limitation of their consequences for persons and the environment.
12. An operator shall provide to the Competent Authority such further information as it may reasonably request in writing following its examination of the safety report, and the information shall be so provided within such period as the Competent Authority specifies in the request.
13. Subject to any issue of confidentiality, as set out in other legislation, the Safety Report shall be made available to the public.
14. The Government, acting on a proposal of the Ministers, shall adopt regulations on Safety Reports.

## **Article 10. Review and updating of safety report**

1. Where a safety report has been sent to the Competent Authority the operator of the upper tier establishment shall review it:
  - a. at least every 5 years;
  - b. whenever such a review is necessary, either at the initiative of the operator or on request of the Competent Authority, because of new facts or to take account of new technical knowledge about safety matters, for example arising from analysis of accidents, or, as far as possible, 'near misses', and of developments in knowledge concerning the assessment of hazards;

- c. whenever the operator makes a change to the safety management system referred to in paragraph 1 of Annex III, Part 1 which could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to people and the environment;

and where in consequence of that review it is necessary to revise the safety report, the operator shall do so forthwith and inform the Competent Authority of the details of such revision.

2. Where a safety report has been reviewed pursuant to Paragraph 1(a) but not revised, the operator shall inform the Competent Authority of that fact.
3. Where an operator proposes to modify the upper tier establishment or installation in it, the process carried on there or the nature or quantity of dangerous substances present there and that modification could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to people and the environment, he shall in advance of such modification:
  - a. Review, and where necessary revise, the safety report prepared in respect of that establishment, installation, process or dangerous substances as the case may be; and
  - b. Inform the Competent Authority of the details of such revision.

## **Chapter 4.        Emergency Plans**

### **Article 11. Internal emergency plan**

1. Every operator of an upper tier establishment shall prepare an internal emergency plan which shall be adequate for securing the objectives specified in Part 1 of Annex IV and shall contain the information specified in Part 2 of Annex IV.
2. The internal emergency plan shall be prepared:
  - a. in the case of an existing upper tier establishment, by 2 years after the coming into force of this Law;
  - b. in the case of a new-entry upper tier establishment, by 1 year after the requirements of this Law apply to that establishment;
  - c. in any other case, before the upper tier establishment starts to operate.
3. The operator shall consult:
  - a. the persons working inside the establishment, including long-term sub-contracted persons;
  - b. the Competent Authority;
  - c. the emergency services; and
  - d. the health authority for the area in which the establishment is situated;

on the preparation of the internal emergency plan.

4. The operator shall consult the local government unit in whose area the establishment is situated on the preparation of the internal emergency plan, except that this shall not apply where the local government unit has been exempted from the requirement to prepare an external emergency plan in respect of the establishment pursuant to Article 12.11.
5. The Government, acting on a joint proposal of the Ministers, shall adopt regulations on internal emergency plans.

## **Article 12. External emergency plan**

1. The local government unit in whose area the upper tier establishment is situated shall prepare an external emergency plan in respect of that establishment, and such a plan shall be adequate for securing the objectives specified in Part 1 of Annex IV and shall contain the information specified in Part 3 of Annex IV.
2. The external emergency plan shall be prepared no later than six months after:
  - a. The receipt by the local government unit of a notice from the Competent Authority informing the local government unit of the need to prepare an external emergency plan in respect of the establishment;
  - b. The time an internal emergency plan is required to be prepared for the establishment pursuant to Article 11; or
  - c. The receipt by the local government unit of the information referred to in Paragraphs 3 and 5;

whichever is later.

3. The operator shall supply to the local government unit in whose area the establishment is situated the information necessary for the purpose of enabling the local government unit to prepare the external emergency plan.
4. The information referred to in Paragraph 3 shall be supplied no later than the time an internal emergency plan is required to be prepared for the establishment pursuant to Article 11.
5. The operator shall supply to the local government unit any additional information it may reasonably request in writing to enable the external emergency plan to be prepared, and the information shall be so provided within such period as the local government unit specifies in the request.
6. The local government unit shall consult the operator, the Competent Authority, the emergency services and the health authority for the area in the vicinity of the establishment on the preparation of the external emergency plan.

7. Without prejudice to the provisions of Paragraph 6 the local government unit shall consult such members of the public as it considers appropriate on the preparation of the external emergency plan.
8. Without prejudice to the provisions of Paragraph 6 the local government unit may also consult such neighbouring local government units as may be likely to be affected by a major accident at the establishment on the preparation of the external emergency plan.
9. The local government unit shall prepare a draft external emergency plan after receipt of the information referred to in Paragraphs 3 and 5 and after the consultations referred to in Paragraphs 6, 7 and 8. The draft external emergency plan shall be made available to the public for a period of not less than 30 days during which the public may provide the local government unit comments in writing on the draft external emergency plan.
10. The local government unit shall prepare a final version of the external emergency plan after due consideration of the comments received pursuant to Paragraph 9.
11. The Competent Authority may in view of the information contained in a safety report exempt a local government unit from the requirement to prepare an external emergency plan in respect of an establishment, and any such exemption shall be in writing and state the duration of the exemption and reasons for granting the exemption.
12. Where an exemption has been given under Paragraph 11, the local government unit shall, for the purposes of this Law and while the exemption is in force, have no function in relation to the preparation, review, testing and putting into effect of an external emergency plan for the establishment concerned.
13. The Government, acting on a proposal of the Ministers, shall adopt regulations on external emergency plans.

### **Article 13. Review and testing of emergency plans**

1. A person who has prepared an emergency plan pursuant to a duty imposed upon him by this Law shall at suitable intervals not exceeding 3 years:
  - a. Review and where necessary revise and update the plan; and
  - b. Test the plan and take reasonable steps to arrange for the emergency services to participate in the test to such extent as is necessary;
2. any such review shall take into account changes occurring in the establishment to which the plan relates and within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

3. The local government shall endeavour to reach agreement with the operator and the emergency services as to how the external emergency plan is to be tested.

#### **Article 14. Implementing emergency plans**

1. A person who has prepared an emergency plan pursuant to a duty imposed upon him by this Law shall take all reasonable steps to put it into effect without delay when:
  - a. a major accident occurs; or
  - b. an uncontrolled event occurs which by its nature could reasonable be expected to lead to a major accident.

### **Chapter 5. Information**

#### **Article 15. Provision of information to the public by the operator**

1. An operator of an upper tier establishment shall ensure:
  - a. that all persons who are likely to be in an area referred to in Paragraph 2; and
  - b. all establishments serving the public (such as schools and hospitals) which are situated in an area referred to in Paragraph 2;

are supplied regularly and in the most appropriate form, without their having to request it, with information on safety measures at the establishment and on the requisite behaviour in the event of a major accident at the establishment.

2. An area referred to in Paragraph 1 is an area notified to the operator by the Competent Authority as being an area in which, in the opinion of the Competent Authority, persons are liable to be affected by a major accident occurring at the establishment.
3. The operator shall make the information referred to in Paragraph 1 available to the public.
4. The information referred to in Paragraph 1 shall contain at least the information specified in Annex V.
5. In preparing the information required to be supplied in accordance with Paragraph 1, the operator shall consult the local government unit in whose area the establishment is situated and such other persons who appear to him to be appropriate, but the operator shall remain responsible for the accuracy, completeness and form of the information so supplied.
6. The operator shall review and where necessary revise and update the information referred to in Paragraph 1:
  - a. At intervals not exceeding 3 years;

- b. In the event of a modification referred to in Article 8 regarding major accident prevention policy; or
  - c. In the event of a modification referred to in Article 9 regarding safety reports.
- 7. The operator shall ensure that the information referred to in Paragraph 1 is supplied in accordance with that paragraph within a reasonable period of time after the external emergency plan has been prepared for the establishment and that the information is supplied again:
  - a. At intervals not exceeding 5 years; or
  - b. If it is revised and updated pursuant to Paragraph 6.
- 8. The Government, acting on a joint proposal of the Ministers, shall adopt regulations on Public Information.

### **Article 16. Provision of information to the Authorities by the operator**

- 1. Every operator of an establishment shall, when requested to do so by the Competent Authority or Inspection Authority, provide sufficient information to that Authority to demonstrate that he has taken all measures necessary to comply with this Law, and the information shall be so provided within such period of time as that Authority specifies in the request.
- 2. Without prejudice to the generality of Paragraph 1, the operator shall, when requested to do so by the Competent Authority or Inspection Authority, provide that Authority with any information necessary to enable that Authority to:
  - a. Assess fully the possibility of a major accident and to determine the scope of possible increased probability and/or aggravation of a major accident;
  - b. Take substances into account which, due to their physical form, particular conditions or location, may require additional consideration; or
  - c. Perform their functions of obtaining or collecting information pursuant to Paragraph 4;

and the information shall be so provided within such period of time as that Authority specifies in the request.

- 3. Where a major accident has occurred at an establishment the operator shall forthwith inform the Competent Authority and the Inspection Authority of that accident.
- 4. Where a major accident has occurred at an establishment the operator shall provide information to the Competent Authority and the Inspection Authority as soon as that information becomes available.
- 5. The information referred to in Paragraph 4 shall include:



- a. The circumstances of the accident;
  - b. The dangerous substances involved;
  - c. The data available for assessing the effects of the accident on humans and the environment;
  - d. The emergency measures taken;
  - e. The steps envisaged
    - i. to alleviate the medium and long term effects of the accident
    - ii. to prevent any recurrence of such an accident.
6. The operator shall update the information referred to in Paragraph 4 if further investigation reveals additional facts which alter that information or the conclusions drawn from such information.

### **Article 17. Provision of information to other establishments by the Competent Authority**

1. The Competent Authority shall, using the information received from operators in notifications sent pursuant to Article 7 and the safety reports sent pursuant to Article 9, designate groups of establishments where the likelihood or consequences of a major accident may be increased because of the location and the proximity of such establishments, and the dangerous substances present there.
2. The Competent Authority shall notify each operator of an establishment in a group designated pursuant to Paragraph 1 of the names and addresses of the other establishments within the same group.
3. The operator of any establishment in a group designated pursuant to Paragraph 1 shall:
  - a. Provide appropriate information about the establishment to the operators of all other establishments in the group to enable them to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policy documents, safety management systems, safety reports and internal emergency plans; and
  - b. Co-operate with those other establishments to enable them to carry out any obligations that they have in providing information to the local government unit for the external emergency plans under Article 12 or providing information to the public under Article 15.

## ***Chapter 6 Duties of the Competent Authority***

### **Article 18 Examination of the safety report**

1. The Competent Authority, within a reasonable period of time but not exceeding three months, of receiving a safety report pursuant to Article 9:
  - a. Communicate the conclusions of its examination of the safety report to the operator of the establishment concerned; or

- b. Prohibit the operation or bringing into operation of the establishment or installation concerned or any part thereof in accordance with Article 21.

### **Article 19 Trans-boundary effects**

1. Where, in the opinion of the Competent Authority, the possibility of a major accident at an establishment to which Article 9 applies which may have trans-boundary effects, the Competent Authority shall send to the Competent Authority of the potentially affected State sufficient information so that the potentially affected State may prepare an external emergency plan, and provide information to its public, as it thinks applicable.
2. Where the Competent Authority has determined that the local government unit for an area in which an establishment is situated is exempt from producing an external emergency report by virtue of Article 12(11), and that establishment is close to the territory of another State, the Competent Authority shall so inform the Competent Authority of that State.
3. Where the Competent Authority has received information on an establishment from another State, the provisions of Articles 12 (external emergency report) and 15 (information on safety measures) shall apply as though that information was received pursuant to Article 9, save that any reference to the operator in Article 15 shall be construed as a reference to the Competent Authority.

### **Article 20 Register**

1. The Competent Authority shall maintain a register containing the information comprised in:
  - a. Notifications under Article 7;
  - b. Safety reports under Article 9;
  - c. Notifications under Article 17(2); and
  - d. Communications under Article 18.
2. The Competent Authority may remove from the register information relating to an establishment after the expiry of 5 years from the time the establishment ceases to be subject to this Law.
3. Where information of any description is excluded from the register by virtue of separate legislation on confidentiality, a statement shall be entered into the register indicating the existence of information of that description.
4. No information may be included in the register if and so long as, in the opinion of the Competent Authority, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.
5. The register shall include information on major accidents that meet the criteria set out in Annex VI. Such information shall include:

- a. The date, time and place of the major accident;
  - b. The full name of the operator;
  - c. The address of the establishment concerned;
  - d. A brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on humans and the environment;
  - e. A brief description of the emergency measures taken; and
  - f. The immediate precautions necessary to prevent any recurrence.
6. The register may be kept in any form.
  7. It shall be the duty of the Competent Authority:
    - a. To ensure that the register is available, during normal working hours, for inspection by the public free of charge; and
    - b. To afford to members of the public facilities for obtaining copies of entries, on payment of a reasonable charge.

### **Article 21 Prohibition of operation**

1. The Competent Authority shall prohibit the operation or bringing into operation of any establishment or installation or any part thereof where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.
2. The Competent Authority may prohibit the operation or bringing into operation of any establishment or installation or any part thereof if the operator has failed to submit any notification, safety report or other information required under this Law within the time so required.
3. Where the Competent Authority proposes to prohibit an operation or the bringing into operation of any establishment or installation or any part thereof pursuant to Paragraph 1, it shall serve on the operator a notice giving reasons for the prohibition and specifying the date when it is to take effect, and any such notice may be withdrawn in writing by the Competent Authority.
4. A notice served pursuant to Paragraph 3 may specify measures which, if taken, would cause the Competent Authority to withdraw the notice.
5. Where a notice has been served on an operator in accordance with Paragraph 3 the operator shall comply with it.

### **Article 22 Inspections and investigations**

1. The Inspection Authority shall organise an adequate system of inspections of establishments or other measures of control appropriate to the type of establishment concerned.
2. The inspections or control measures referred to in Paragraph 1 shall not be dependent upon receipt of the safety report or any other report submitted by

the operator. Such inspections or other control measures shall be sufficient for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organizational or managerial nature, so as to ensure in particular:

- a. that the operator can demonstrate that he has taken appropriate measures, in connection with the various activities involved in the establishment, to prevent major accidents;
  - b. that the operator can demonstrate that he has provided appropriate means for limiting the consequences of major accidents, both inside and outside the establishment;
  - c. that the data and information contained in the safety report, or any other report submitted by the operator of the establishment to the Competent Authority and or Inspection Authority, adequately reflects the conditions in the establishment; and
  - d. that information has been supplied to the public pursuant to Article 15.
3. A system of inspection referred to in Paragraph 1 shall meet the following conditions:
- a. there shall be a programme of inspections for all establishments;
  - b. unless such a programme is based upon a systematic appraisal of major-accident hazards of the particular establishment concerned, the programme shall entail at least one on-site inspection made by the competent authority every twelve months of each establishment subject to the requirements of Article 9 on safety reports;
  - c. following each inspection, a report shall be prepared by the Inspection Authority; and
  - d. where necessary, every inspection carried out by the Inspection Authority shall be followed up with the operator and management of the establishment, within a reasonable period of time following the inspection.
4. Where the Inspection Authority has been notified of a major accident at an establishment it shall:
- a. Ensure that any urgent, medium and long term measures which may prove necessary are taken;
  - b. Make a full analysis of the technical, organisational and managerial aspects of the major accident and collect, by inspection, investigation or other appropriate means, the information necessary for that purpose;
  - c. Take appropriate action to ensure that the operator takes any necessary remedial measures; and
  - d. Make recommendations on future preventative measures.
5. The Government, acting on a proposal of the Ministers, shall adopt regulations on inspections.

## **Chapter 7.      *Land use planning***

## **Article 23 Land use policies**

1. The land-use policies and other relevant policies developed by the relevant authorities under separate legislation shall take into account the objectives of preventing major accidents and limiting the consequences of such accidents.
2. The objectives referred to in Paragraph 1 shall be pursued through controls on:
  - a. The siting of new establishments;
  - b. Modifications to existing establishments;
  - c. New developments such as transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or developments are such as to increase the risk or consequences of a major accident.
3. The policies referred to in Paragraph 1 and the procedures for implementing such policies shall take account of the need, in the long term:
  - a. To maintain appropriate distances between establishments covered by this Law and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest; and
  - b. In the case of existing establishments, of the need for any additional technical measures in accordance with the general obligations of the operator pursuant to Article 6.
4. The relevant planning authorities and those competent under this Law shall establish appropriate consultation procedures to facilitate implementation of the land-use policies referred to in this Article. Such procedures must be designed to ensure that technical advice on risks arising from establishments is available when decisions are taken.
5. The Government, acting on a proposal of the Ministers, shall adopt regulations on the implementation of this Article.

## **Article 24 Public consultation**

1. The relevant planning authorities and those competent under this law shall ensure that the public has an opportunity to give its opinion on proposals for:
  - a. Planning for new upper tier establishments;
  - b. Modifications to existing establishments;
  - c. Developments around existing establishments.
2. The Government, acting on a proposal of the Ministers, shall adopt regulations on the implementation of this Article.

## **Chapter 8. Sanctions and penalties**

### **Article 25 Sanctions and penalties**

1. The following infringement is a criminal offence:

- a. Any person who is under a duty to provide information under this Law and who provides false or misleading information to the Competent Authority or to the Inspection Authority or to any other authority under this Law shall be guilty of a criminal offence under Article 186 of the Criminal Code.
2. For the purposes of this Law, the following infringements, shall be regarded as administrative contraventions when not constituting a criminal offence:
- a. Any operator who fails to send to the Competent Authority a notification as required by Article 7, shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek and accruing at \_\_\_\_\_ Lek per day until such notification is received by the CA;
  - b. Any operator who fails to send to the Competent Authority a notification within the time period required by Article 7, shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - c. Any operator who fails to inform the Competent Authority of the relevant facts in accordance with Article 7(5) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek and accruing at \_\_\_\_\_ Lek per day until such information is received by the CA;
  - d. Any operator of a lower-tier establishment who fails to prepare or to keep a major accident prevention policy in accordance with Article 8 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - e. Any operator of a lower-tier establishment who fails to review and where necessary to revise the major accident prevention policy in accordance with Article 8(5) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - f. Any operator of a lower-tier establishment who fails to implement the major accident prevention policy in accordance with Article 8(6) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - g. Any operator of an upper-tier establishment who fails to send to the Competent Authority a Safety Report in accordance with Article 9 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - h. Any operator of an upper-tier establishment who fails to send to the Competent Authority a Safety Report in accordance with Article 9 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek and accruing at \_\_\_\_\_ Lek per day until such notification is received by the CA;
  - i. Any operator of an upper-tier establishment who fails to send to the Competent Authority a Safety Report within the time period required by Article 9 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - j. Any operator of an upper-tier establishment who operators all or part of that establishment without the necessary conclusions from the Competent Authority required by Article 9 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;

- k. Any operator of an upper-tier establishment who fails to review an dif necessary update the Safety Report in accordance with Article 10 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - l. Any operator of an upper-tier establishment who modifies that establishment without first reviewing and if necessary revising the Safety Report in accordance with Article 10(3)(a) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - m. Any operator of an upper-tier establishment who modifies that establishment without first informing the Competent Authority in accordance with Article 10(3)(b) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - n. Any operator of an upper-tier establishment who fails to prepare an Internal Emergency Plan in accordance with Article 11 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - o. Any operator of an upper-tier establishment who fails to provide the relevant local government unit with the information necessary for that local government unit to prepare an External Emergency Plan in accordance with Article 12 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - p. Any operator of an upper-tier establishment who fails to review and if necessary revise the Internal Emergency Plan in accordance with Article 13(1)(a) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - q. Any operator of an upper-tier establishment who fails to test the Internal Emergency Plan in accordance with Article 13(1)(b) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - r. Any operator of an upper-tier establishment who fails to take reasonable steps to arrange for the emergency services to participate in the test of the Internal Emergency Plan in accordance with Article 13(1)(b) shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - s. Any operator of an upper-tier establishment who fails to implement the Internal Emergency Plan in accordance with Article 14 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - t. Any operator of an upper-tier establishment who fails to provide information to the public in accordance with Article 15 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - u. Any operator of an upper-tier establishment who fails to provide information to the relevant authorities in accordance with Article 16 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek;
  - v. Any operator of any establishment who operates all or part of an establishment which is subject to a prohibition of use in accordance with Article 21 shall be liable to an administrative fine from \_\_\_\_\_ lek to \_\_\_\_\_ lek.
3. The enforcement of the administrative contraventions does not release the subject to whom it is directed from the other obligations foreseen by this law and the civil responsibility for the damage caused in accordance with the legislation in force.

## **Chapter 9. Final provisions**

### **Article 26 Reporting**

1. The Ministries shall prepare a report on the implementation of this Law every three years.
2. The information referred to in Paragraph 1 shall include at a minimum:
  - a. A list of establishments to which Article 9(11) applies, with reasons.
  - b. The name or trade name of each operator, whose establishment is part of the list;
  - c. The full address of each establishment;
  - d. The activity or activities of each establishment; and
3. The information referred to in Paragraph 1 shall also include the information specified in Annex VI for any major accident meeting the criteria specified in that Annex.
4. The information referred to in Paragraph 1 shall also include information on of any analysis and recommendations made pursuant to Article 22(4)(b) and (d).
5. The Government, acting on a proposal of the Ministers, shall adopt regulations on reporting.

### **Article 27 Fees to the Competent Authority**

1. The operator of a lower-tier establishment shall pay to the Competent Authority an annual fee for ???..
2. The operator of an upper-tier establishment shall pay to the Competent Authority an annual fee for ???
3. The values of the fees mentioned in paragraphs 1 and 2 of this Article shall be endorsed by the Government upon proposal of the Minister.

**Comment [NP1]:** Which minister? Environment and Labor? Or Finance?

### **Article 28. Fees to the local government unit**

1. The operator of an upper-tier establishment shall pay to the relevant local government unit a fee when that local government unit tests the relevant External Emergency Plan as referred to in Article 13.
2. The fee referred to in Paragraph 1 shall not exceed the costs reasonably incurred by the local government unit is testing that External Emergency Plan.



3. fees referred in paragraph 1 are to be set by each local government unit according to the law on local taxation and fees.

#### **Article 29 By-laws under this law**

1. The Government, acting on a proposal of the Ministers, shall adopt regulations within 3 years from the date this law enters into power.
2. The Government shall adopt regulations following requirements of articles: 7.6, 9.14, 9.15, 11.5, 12.13, 15.8, 22.5, 23.4, 24.2, 26.5, 27.3.

#### **Article 30 Amendments and repeals**

*Need to consider what other legislation may require amendment or repeal as a result of the bringing into force of this Law.*

#### **Article 31 Coming into force**

This Law enters into force 15 days following its publication in the Official Gazette.

## **Annex I. Dangerous substances to which this Law applies**

### **Introduction**

1. This Annex applies to the presence of dangerous substances at any establishment and determines the application of the relevant Articles of this Law in accordance with Article 4(1).
2. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the relevant provisions specified in Part 2, Note 1, unless a percentage composition or other description is specifically given.
3. The qualifying quantities set out in Parts 1 and 2 relate to each establishment.
4. The quantities to be considered for the application of the relevant Articles are the maximum quantities which are present or are likely to be present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 % of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere on the site.
5. The rules given in Part 2, Note 4 governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate.
6. For the purposes of this Law, a gas is any substance that has an absolute vapour pressure equal to or greater than 101,3 kPa at a temperature of 20 ° C.
7. For the purposes of this Law, a liquid is any substance that is not defined as a gas and that is not in the solid state at a temperature of 20 ° C and at a standard pressure of 101,3 kPa.

### **Part 1 Named Substances**

Where a substance or group of substances listed in this Part also falls within a category of Part 2, the qualifying quantities set out in this Part must be used.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Dangerous substances</b>	<b>Qualifying quantity (tonnes) for the application of:</b>	
	<b>Articles 7 and 8</b>	<b>Article 9</b>
Ammonium nitrate (1)	5 000	10 000
Ammonium nitrate (2)	1 250	5 000
Ammonium nitrate (3)	350	2 500
Ammonium nitrate (4)	10	50
Potassium nitrate (5)	5 000	10 000

Column 1	Column 2	Column 3
<b>Dangerous substances</b>	<b>Qualifying quantity (tonnes) for the application of:</b>	
	<b>Articles 7 and 8</b>	<b>Article 9</b>
Potassium nitrate (6)	1 250	5 000
Bromine	20	100
Chlorine	10	25
Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)		1
Ethyleneimine	10	20
Fluorine	10	20
Formaldehyde (concentration $\geq 90$ %)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Lead alkyls	5	50
Liquefied extremely flammable gases (including LPG) and natural gas	50	200
Acetylene	5	50
Ethylene oxide	5	50
Propylene oxide	5	50
Methanol	500	5 000
4, 4-Methylenebis (2-chloroaniline) and/or salts, in powder form		0.01
Methylisocyanate		0.15
Oxygen	200	2 000
Toluene diisocyanate	10	100
Carbonyl dichloride (phosgene)	0.3	0.75
Arsenic trihydride (arsine)	0.2	1
Phosphorus trihydride (phosphine)	0.2	1
Sulphur dichloride	1	1
Sulphur trioxide	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent		0.001
The following CARCINOGENS at concentrations above 5 % by weight: 4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chlor-omethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2-Naphthylamine and/or	0.5	2

Column 1	Column 2	Column 3
Dangerous substances	Qualifying quantity (tonnes) for the application of:	
	Articles 7 and 8	Article 9
salts, 4- Nitrodiphenyl, and 1,3 Propanesultone		
Petroleum products: (a) gasolines and naphthas, (b) kerosenes (including jet fuels), (c) gas oils (including diesel fuels, home heating oils and gas oil blending streams)	2 500	25 000

## Notes

### 1. Ammonium nitrate (5 000/10 000): fertilisers capable of self-sustaining decomposition

This applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers containing ammonium nitrate with phosphate and/or potash) in which the nitrogen content as a result of ammonium nitrate is:

- between 15.75 %<sup>2</sup> and 24.5 %<sup>3</sup> by weight, and either with not more than 0.4 % total combustible/organic materials,
- 15.75 %<sup>4</sup> by weight or less and unrestricted combustible materials,

and which are capable of self-sustaining decomposition according to the UN Trough Test (see United Nations Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria, Part III, subsection 38.2).

### 2. Ammonium nitrate (1 250/5 000): fertiliser grade

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers in which the nitrogen content as a result of ammonium nitrate is:

- more than 24.5 % by weight, except for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %,
- more than 15.75 % by weight for mixtures of ammonium nitrate and ammonium sulphate,
- more than 28 %<sup>5</sup> by weight for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %,

and which meets the requirements of the test of resistance to detonation of fertilizers as set out in separate legislation on straight ammonium nitrate fertilizers of high nitrogen content [Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content]

<sup>2</sup> 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate

<sup>3</sup> 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate

<sup>4</sup> 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate

<sup>5</sup> 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate

### 3. Ammonium nitrate (350/2500): technical grade

This applies to:

- ammonium nitrate and preparations of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is;
  - between 24.5 % and 28 % by weight, and which contain not more than 0.4 % combustible substances,
  - more than 28 % by weight, and which contain not more than 0.2 % combustible substances,
- aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80 % by weight.

### 4. Ammonium nitrate (10/50): “off-specs” material and fertilisers not fulfilling the detonation test

This applies to:

- material rejected during the manufacturing process and to ammonium nitrate and preparations of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in Notes 2 and 3, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 2 and 3;
- fertilizers referred to in Note 1, first indent, and Note 2 and which do not meet the requirements of the test of resistance to detonation of fertilizers as set out in separate legislation on straight ammonium nitrate fertilizers of high nitrogen content [*Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content*].

### 5. Potassium nitrate (5 000/10 000):

This applies to composite potassium-nitrate based fertilisers composed of potassium nitrate in prilled/granular form.

### 6. Potassium nitrate (1 250/5 000):

This applies to composite potassium-nitrate based fertilisers composed of potassium nitrate in crystalline form.

### 7. Polychlorodibenzofurans and polychlorodibenzodioxins

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

#### International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)

International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1
1,2,3,7,8-PeDD	0.5	2,3,4,7,8-PeCDF	0.5
1,2,3,4,7,8-HxCDD	0.1	1,2,3,4,7,8-HxCDF	0.1
1,2,3,6,7,8-HxCDD		1,2,3,7,8,9-HxCDF	
1,2,3,7,8,9-HxCDD		1,2,3,6,7,8-HxCDF	
		2,3,4,6,7,8-HxCDF	

1,2,3,4,6,7,8-HpCDD	0.01		
OCDD	0.001	1,2,3,4,6,7,8-HpCDF 1,2,3,4,7,8,9-HpCDF	0.01
		OCDF	0.001
(T = tetra, P = penta, Hx = hexa, HP = hepta, O = octa)			

**Part 2 Categories of substances and preparations not specifically mentioned in Part 1**

Column 1	Column 2	Column 3
<b>Categories of Dangerous substances</b>	<b>Qualifying quantity (tonnes) of dangerous substances for the application of:</b>	
	<b>Articles 7 and 8</b>	<b>Article 9</b>
1. VERY TOXIC	5	20
2. TOXIC	50	200
3. OXIDIZING	50	200
4. EXPLOSIVE (2) where the substance, preparation or article falls under UN/ADR Division 1.4	50	200
5. EXPLOSIVE (2) where the substance, preparation or article falls under any of: UN/ADR Divisions 1.1, 1.2, 1.3, 1.5 or 1.6 or risk phrase R2 or R3	10	50
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (a))	5 000	50 000
7a. HIGHLY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (b) (1))	50	200
7b. HIGHLY FLAMMABLE liquids (where substance or preparation falls within the definition given in Note 3 (b) (2))	5 000	50 000
8. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (c))	10	50
9. DANGEROUS FOR THE ENVIRONMENT risk phrases:		
i) R50: 'Very toxic to aquatic organisms' (including R50/53)	100	200
ii) R51/53: 'Toxic to aquatic organisms; may cause long term adverse effects in the aquatic environment'	200	500
10. ANY CLASSIFICATION not covered by those given above in combination with		

risk phrases:		
(i) R14: 'Reacts violently with water' (including R14/15)	100	500
(ii) R29: 'in contact with water, liberates toxic gas'	50	200

## Notes

1. Substances and preparations shall be classified for the purposes of this Annex according to separate legislation on the classification, packaging and labelling of dangerous substances and of dangerous preparations, whether or not the substance or preparation is required to be classified for the purposes of that legislation.

*[national legislation transposing;*

*Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances,*

*Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations].*

In the case of substances and preparations which are not classified as dangerous according to that legislation, for example waste, but which nevertheless are present, or are likely to be present, in an establishment and which possess or are likely to possess, under the conditions found at the establishment, equivalent properties in terms of major-accident potential, the procedures for provisional classification shall be followed in accordance with the that legislation.

In the case of substances and preparations with properties giving rise to more than one classification, for the purposes of this Law the lowest qualifying quantities shall apply. However, for the application of the rule in Note 4, the qualifying quantity used shall always be the one corresponding to the classification concerned.

2. An "explosive" means:
  - a substance or preparation which creates the risk of an explosion by shock, friction, fire or other sources of ignition (risk phrase R2),
  - a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R3), or
  - a substance, preparation or article covered by Class 1 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (UN/ADR), concluded on 30 September 1957, as amended.

Included in this definition are pyrotechnics, which for the purposes of this Law are defined as substances (or mixtures of substances) designated to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions. Where a substance or preparation is classified by

both UN/ADR and risk phase R2 or R3, the UN/ADR classification shall take precedence over assignment of risk phrases.

Substances and articles of Class 1 are classified in any of the divisions 1.1 to 1.6 in accordance with the UN/ADR classification scheme. The divisions concerned are:

*Division 1.1:* “Substances and articles which have a mass explosion hazard (a mass explosion is an explosion which affects almost the entire load virtually instantaneously).”

*Division 1.2:* “Substances and articles which have a projection hazard but not a mass explosion hazard.”

*Division 1.3:* “Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard:

(a) combustion of which gives rise to considerable radiant heat; or

(b) which burn one after another, producing minor blast or projection effects or both.”

*Division 1.4:* “Substances and articles which present only a slight risk in the event of ignition or initiation during carriage. The effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire shall not cause virtually instantaneous explosion of virtually the entire contents of the package.”

*Division 1.5:* “Very insensitive substances having a mass explosion hazard which are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of carriage. As a minimum requirement they shall not explode in the external fire test.”

*Division 1.6:* “Extremely insensitive articles which do not have a mass explosion hazard. The articles contain only extremely insensitive detonating substances and demonstrate a negligible probability of accidental initiation or propagation. The risk is limited to the explosion of a single article.”

Included in this definition are also explosive or pyrotechnic substances or preparations contained in articles. In the case of articles containing explosive or pyrotechnic substances or preparations, if the quantity of the substance or preparation contained is known, that quantity shall be considered for the purposes of this Law. If the quantity is not known, then, for the purposes of this Law, the whole article shall be treated as explosive.

3. 'Flammable', 'highly flammable', and 'extremely flammable' in categories 6, 7 and 8 mean:

(a) flammable liquids:

substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phrase R 10), supporting combustion;

(b) highly flammable liquids:

1. - substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R 17),



-substances and preparations which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards;

2. substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R 11, second indent);

(c) extremely flammable gases and liquids:

1. liquid substances and preparations which have a flash point lower than 0°C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35°C (risk phrase R 12, first indent), and

2. gases which are flammable in contact with air at ambient temperature and pressure (risk phrase R12, second indent), which are in a gaseous or supercritical state, and

3. flammable and highly flammable liquid substances and preparations maintained at a temperature above their boiling point.

4. In the case of an establishment where no individual substance or preparation is present in a quantity above or equal to the relevant qualifying quantities, the following rule shall be applied to determine whether the establishment is covered by the relevant requirements of this Law.

This Law shall apply if the sum

$q1/Q_{U1} + q2/Q_{U2} + q3/Q_{U3} + q4/Q_{U4} + q5/Q_{U5} + \dots$  is greater than or equal to 1,

where  $q_x$  = the quantity of dangerous substance  $x$  (or category of dangerous substances) falling within Parts 1 or 2 of this Annex,  
and  $Q_{UX}$  = the relevant qualifying quantity for substance or category  $x$  from column 3 of Parts 1 or 2.

This Law shall apply, with the exception of Articles 9, 11 and 15, if the sum

$q1/Q_{L1} + q2/Q_{L2} + q3/Q_{L3} + q4/Q_{L4} + q5/Q_{L5} + \dots$  is greater than or equal to 1,

where  $q_x$  = the quantity of dangerous substance  $x$  (or category of dangerous substances) falling within Parts 1 or 2 of this Annex,  
and  $Q_{LX}$  = the relevant qualifying quantity for substance or category  $x$  from column 2 of Parts 1 or 2.

This rule shall be used to assess the overall hazards associated with toxicity, flammability, and eco-toxicity.

It must therefore be applied three times:

(a) for the addition of substances and preparations named in Part 1 and classified as toxic or very toxic, together with substances and preparations falling into categories 1 or 2;

(b) for the addition of substances and preparations named in Part 1 and classified as oxidising, explosive, flammable, highly flammable, or extremely

- flammable, together with substances and preparations falling into categories 3, 4, 5, 6, 7a, 7b or 8;
- (c) for the addition of substances and preparations named in Part 1 and classified as dangerous for the environment (R50 (including R50/53) or R51/53), together with substances and preparations falling into categories 9(i) or 9(ii);

The relevant provisions of this Law shall apply if any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.

## ***Annex II. Principles to be taken into account when preparing major accident prevention plans***

For the purpose of implementing the operator's major accident prevention policy and safety management system account shall be taken of the following elements. The requirements laid down in the major accident prevention policy document should be proportionate to the major-accident hazards presented by the establishment.

1. The major accident prevention policy should be established in writing and should include the operator's overall aims and principles of action with respect to the control of major-accident hazards.
2. The safety management system should include the part of the general management system which includes the organizational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major-accident prevention policy.
3. The following issues shall be addressed by the safety management system:
  - (a) organisation and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontracted personnel working in the establishment;
  - (b) identification and evaluation of major hazards - adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation and the assessment of their likelihood and severity;
  - (c) operational control - adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes, equipment and temporary stoppages;
  - (d) management of change - adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
  - (e) planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis, to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned. Such training shall be given to all personnel working in the establishment, including relevant subcontracted personnel;
  - (f) monitoring performance - adoption and implementation of procedures for the ongoing assessment of compliance with the objectives set by the operator's major-accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in case of

non-compliance. The procedures should cover the operator's system for reporting major accidents or near misses, particularly those involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt;

- (g) audit and review - adoption and implementation of procedures for periodic systematic assessment of the major-accident prevention policy and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management.

## ***Annex III. Content of the Safety Report***

### **Part 1 – Purpose of safety reports**

The purposes of the safety report referred to in Article 9 are:

1. To demonstrate that a major accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Annex II.
2. To demonstrate that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for persons and the environment.
3. To demonstrate that adequate safety and reliability have been incorporated into:
  - (a) the design and construction, and
  - (b) operation and maintenance,of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major-accident hazards inside the establishment.
4. To demonstrate that internal emergency plans have been drawn up and supplying information to enable the external plan to be drawn up in order to take the necessary measures in the event of a major accident.
5. To provide sufficient information to the relevant authorities to enable decisions to be made in terms of the siting of new activities or developments around establishments.

### **Part 2 – Minimum information to be included in the safety report**

1. The name and address of the relevant organisations involved in the preparation and drawing up of the safety report.
2. Information on the management system and on the organisation of the establishment with a view to major accident prevention.

This information shall contain the elements set out in Annex II.

3. Presentation of the environment of the establishment:

- (a) description of the site and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;
- (b) identification of installations and other activities of the establishment which could present a major-accident hazard;
- (c) description of areas where a major accident may occur.

4. Description of the installation:

- (a) description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major-accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
- (b) description of processes, in particular the operating methods;
- (c) description of dangerous substances –
  - (i) inventory of dangerous substances, updated as necessary, including:
    1. the identification of dangerous substances: chemical name, the number allocated to the substance by the Chemical Abstract Service (CAS), the name according to the International Union of Pure and Applied Chemistry (IUPAC) nomenclature;
    2. the maximum quantity of dangerous substances present or likely to be present;
  - (i) physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for persons and the environment;
  - (ii) physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.

5. Identification and accidental risks analysis and prevention methods:

- (a) detailed description of the possible major-accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation;
- (b) assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are liable to be affected by such accidents arising from the establishment, subject to the provisions of confidentiality as set out in separate legislation;

(c) description of technical parameters and equipment used for the safety of installations.

6. Measures of protection and intervention to limit the consequences of an accident:

(a) description of the equipment installed in the plant to limit the consequences of major accidents;

(b) organization of alert and intervention;

(c) description of mobilisable resources, internal or external;

(d) summary of elements described in (a), (b), and (c) above necessary for drawing up the internal emergency plan.

### **Part 3. Criteria to be used for limiting the information to be included in a safety report**

#### ***Introduction***

1. The provision of Article 9(11) of this Law is intended to avoid unnecessary administrative requirements if particular substances at a specific establishment are in a state incapable of creating a major-accident hazard. The decision concerning each establishment will be made by the Competent Authority on a case-by-case basis. However, it is clear that any dispensation granted under this paragraph only relates to a limitation of information required in the Safety Report, and does not release the operator from other obligations under this Law. The establishment will remain an upper-tier establishment.
2. The operator of an upper tier establishment is required by Article 9 of this Law to submit a Safety Report that must contain an updated inventory of the dangerous substances present in the establishment.
3. In other words, all substances present at the establishment that are 'dangerous substances' as defined in Article 2 of this Law must be considered even if their quantities do not meet the threshold levels set out in Annex I.
4. It follows that a dispensation under Article 9(11) of this Law can relate to any dangerous substances present at an establishment, irrespective of the qualifying quantities of this Law. It should be noted that a substance present in one part of an establishment, say one particular installation, may qualify for a dispensation when the same substance elsewhere in the establishment does not.

#### ***Criteria***

A dispensation according to Article 9(11) of this Law may be granted by the Competent Authority if at least one of the following generic criteria is fulfilled.

##### **1. Physical form of substance**

Substances in solid form, such that, under both normal conditions and any abnormal conditions which can reasonably be foreseen, a release, of matter or of energy, which could create a major-accident hazard, is not possible.

**2. Containment and quantities**

Substances packaged or contained in such a fashion and in such quantities that the maximum release possible under any circumstances cannot create a major-accident hazard.

**3. Location and quantities**

Substances present in such quantities and at such distances from other dangerous substances (at the establishment or elsewhere) that they can neither create a major-accident hazard by themselves, nor initiate a major accident involving other dangerous substances.

**4. Classification**

Substances which are defined as dangerous substances by virtue of their generic classification in Annex I, Part 2 to this Law, but which cannot create a major-accident hazard, and for which therefore the generic classification is inappropriate for this purpose.



## ***Annex IV. Content of the Emergency Plans***

### **Part 1 Objectives of emergency plans**

The emergency plans mentioned in Chapter 4 must be established with the objectives of:

1. containing and controlling incidents so as to minimize the effects, and to limit damage to humans, the environment and property;
2. implementing the measures necessary to protect man and the environment from the effects of major accidents;
3. communicating the necessary information to the public and to the services or authorities concerned in the area;
4. providing for the restoration and clean-up of the environment following a major accident;
5. taking into account the need to facilitate enhanced co-operation in civil protection assistance in major emergencies, with regard to external emergency plans

### **Part 2 Information to be included in internal emergency plan**

1. Names or positions of persons authorized to set emergency procedures in motion and the person in charge of and coordinating the on-site mitigatory action.
2. Name or position of the person with responsibility for liaising with the authority responsible for the external emergency plan.
3. For foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available.
4. Arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning.
5. Arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available.

6. Arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with off-site emergency services.
7. Arrangements for providing assistance with off-site mitigatory action.

### **Part 3 Information to be included in external safety report**

1. Names or positions of persons authorized to set emergency procedures in motion and of persons authorized to take charge of and coordinate off-site action.
2. Arrangements for receiving early warning of incidents, and alert and call-out procedures.
3. Arrangements for coordinating resources necessary to implement the external emergency plan.
4. Arrangements for providing assistance with on-site mitigatory action.
5. Arrangements for off-site mitigatory action.
6. Arrangements for providing the public with specific information relating to the accident and the behaviour which it should adopt.
7. Arrangements for the provision of information to the emergency services of other States in the event of a major accident with possible transboundary consequences.

## ***Annex V. Information to be supplied to the public***

The information to be supplied to the public pursuant to Article 15(1) is:

1. Name of operator and address of the establishment.
2. Identification, by position held, of the person giving the information.
3. Confirmation that the establishment is subject to this Law and that the notification referred to in Article 7, or the safety report referred to in Article 9 has been submitted to the Competent Authority.
4. An explanation in simple terms of the activity or activities undertaken at the establishment.
5. The common names or, in the case of dangerous substances covered by Part 2 of Annex I, the generic names or the general danger classification of the substances and preparations involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics.
6. General information relating to the nature of the major-accident hazards, including their potential effects on the population and the environment.
7. Adequate information on how the population concerned will be warned and kept informed in the event of a major accident.
8. Adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident.
9. Confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimize their effects.
10. A reference to the external emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to cooperate with any instructions or requests from the emergency services at the time of an accident.
11. Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in separate legislation.

## ***Annex VI. Reporting on major accidents***

Any accident covered by paragraph 1 or having at least one of the consequences described in paragraphs 2, 3, 4 and 5 must be reported.

### **1. Substances involved**

Any fire or explosion or accidental discharge of a dangerous substance involving, a quantity of at least 5 % of the qualifying quantity laid down in column 3 of Parts 1 or 2 of Annex I.

### **2. Injury to persons and damage to real estate**

An accident directly involving a dangerous substance and giving rise to one of the following events:

- a death,
- six persons injured within the establishment and hospitalized for at least 24 hours,
- one person outside the establishment hospitalized for at least 24 hours,
- dwelling(s) outside the establishment damaged and unusable as a result of the accident,
- the evacuation or confinement of persons for more than 2 hours (persons × hours): the value is at least 500,
- the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons × hours): the value is at least 1 000.

### **3. Immediate damage to the environment**

- permanent or long-term damage to terrestrial habitats:
  - 0,5 ha or more of a habitat of environmental or conservation importance protected by legislation,
  - 10 or more hectares of more widespread habitat, including agricultural land,
- significant or long-term damage to freshwater and marine habitats:
  - 10 km or more of river or canal,
  - 1 ha or more of a lake or pond,
  - 2 ha or more of delta,
  - 2 ha or more of a coastline or open sea,
- significant damage to an aquifer or underground water
  - 1 ha or more.

### **4. Damage to property**

- damage to property in the establishment: at least 2 million Euro,
- damage to property outside the establishment: at least 0,5 million Euro.

### **5. Cross-border damage**

Any accident directly involving a dangerous substance giving rise to effects outside the territory of the Republic of Albania.

Accidents or 'near misses' which the Competent Authority or Inspection Authority regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above

should be reported.