

ROADMAP

Title of the initiative: **Revision of the Seveso II Directive**
Type of initiative (CWP/Catalogue/Comitology): catalogue
Lead DG: ENV C.3
Expected date of adoption of the initiative (month/year): 4th quarter 2010
Date of modification: 10 March 2010
Version No: 1

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

(i) The Seveso II Directive needs to be amended to adapt its Annex I to respond to changes to international (Global Harmonised System) and EU rules on classification of dangerous substances which have changed radically. The proposed changes to the existing Directive will continue to ensure that the necessary high level of protection is maintained throughout the EU.

(ii) Major accidents can have serious impacts on human health and the environment, as well as significant economic costs, not just at local but also at regional, national or even international level (due to possible trans-boundary effects).

What are the main problems identified?

Overall the existing Directive is fit for purpose. No major changes are required. The main change will be the adaptation to Annex I, where the aim is to minimise any impact on the scope of the Directive. Furthermore, certain other provisions should be clarified and updated in the light of experience to date to improve implementation and enforceability.

Who is affected?

Industrial operators and competent authorities in the Member States.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

(i) The planned amendments are fully in line with the subsidiarity principle since they aim at maintaining the existing approach of laying down harmonised goals and objectives, but leave detailed implementation to be determined by Member States to be carried out at the lowest appropriate level in line with national conditions.

(ii) and (iii) All the envisaged changes necessitate action at EU level since the Member States can not change EU legislation. Action at Community level is needed to avoid significantly different levels of protection in the Member States and possible distortions to competition that could result.

B. Objectives of EU initiative

What are the main policy objectives?

The directive's objective is to prevent major accidents involving dangerous substances and the limitation of their consequences for man and the environment. The main objective of the amendment is to align the Seveso directive with international and EU rules on the classification of

chemicals. A straight one-to-one translation from the old rules is not possible. A number of options are under examination with a view to maintaining the existing levels of protection without unduly extending the Directive's scope. The new classification system will enable the scope of the Directive to be adapted to its aims, although this could result in some chemicals being added or removed, However overall any change in scope will be marginal.

The aim of the amendment will also be to improve and clarify the directive by including for example more clearly defined provisions, etc, such as those relating to information to the public, with a view to promoting greater harmonisation of practices in implementation and enhancing the effectiveness of the Directive and its enforceability.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?

(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

(i) The (ongoing) review is set to consider a range of options including a business as usual (no change) scenario and the alignment of EU law with international obligations on the classification of chemicals. The options considered are technical and concern the general approach to the adaptation of the Directive to the new international and EU rules. Regarding the clarification and updating of certain provisions the options considered are no change, amendment and/or guidance.

(ii) Guidance may be considered as an option for the clarification of some provisions.

(iii) This amendment is a needed update of existing legislation not a new initiative.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle.

The existing proportionate approach, with a tiered approach based on the quantities of dangerous substances present in establishments, will be maintained.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Although it is not anticipated that the amendments will have any major impacts, it was considered appropriate to undertake an impact assessment of both the GHS alignment, which represents the main change, and the other amendments envisaged. The GHS alignment options could have a significant impact on individual sites in specific sectors (positive or negative) and the aim of the impact assessment study was to assess these. Initial screening of potential impacts of these options indicates that whichever is chosen would have limited impact (max. increase of scope ranging from 0 to 3 %, depending on the option). Preliminary indications on the other possible amendments suggest that overall these amendments will have no significant impacts.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

No significant impacts. However, where possible provisions will be simplified/streamlined to reduce administrative burdens, notably regarding reporting obligations.

E. Planning of further impact assessment work

When will the impact assessment work start?

The final report of a study on the IA for Annex I alignment is about to be finalised. Reactions from Member States will be obtained in April 2010 (Seveso committee meeting).

Work on overall impact assessment started in January 2010.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

(i) and (ii) The impact assessment study on options for adapting Annex I is about to be concluded. Furthermore two recent studies evaluating the effectiveness of existing requirements, three-yearly implementation reports from Member States (covering the period 2006-2008), and findings from the DG ENTR study on administrative burdens are already available. Views of competent authorities in the Member States and stakeholders are already available and continue to be received.

The overall impact assessment study is underway, based on additional work that is being undertaken by an external contractor.

Stakeholders have had an opportunity to comment on the impact assessment study for adapting Annex I. There are no plans for the overall impact assessment study to be validated/peer reviewed by stakeholders, but stakeholders will be consulted as necessary on specific issues covered.

(iii) and (iv) Beyond the above, no additional information needs to be gathered.

(v) Where options are likely to have significant impacts the analysis will be quantified. In other cases a semi-qualitative approach will be adopted as long as there is data availability. A qualitative analysis will be applied to the remaining options.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Over the last two years or so, experts from Member States have been consulted, through meetings of the committee of competent authorities and related technical and expert working groups and seminars, and given the opportunity of contributing input to studies undertaken.

Over the same period industry and environmental NGOs have likewise have continuously contributed to the studies and technical discussion to date. Information about the review has been regularly published on DG ENV's website. Information was also published through Your Voice in Europe. In particular, a stakeholder consultation meeting, which was well attended, was held on 10 November 2009. A large number of comments were received prior to, during and after that meeting. Further comments continue to be received. All these and any additional comments submitted, for example in response to study findings published on our website, will be taken into account.

Further consultations will be held as necessary during the overall impact assessment phase.