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Subject : Proposal for a Directive of the European Parliament and of the Council
establishing an infrastructure for spatial information in the Community
(INSPIRE)
– Recitals

Delegations will find in the Annex the text of the preamble, as agreed at the meeting of the Working Party on the Environment on 7 July 2005. This preamble, together with the text of the political agreement, will be forwarded to the legal/linguistic experts to prepare the text of the common position.

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing an infrastructure for spatial information in the Community (INSPIRE)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission, ¹

Having regard to the opinion of the European Economic and Social Committee, ²

Having regard to the opinion of the Committee of the Regions, ³

Acting in accordance with the procedure laid down in Article 251 of the Treaty, ⁴

Whereas:

1. Community policy on the environment must aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. Moreover, information, including spatial information, is needed for the formulation and implementation of this policy and other Community policies, which must integrate environmental protection requirements, in accordance with Article 6 of the Treaty. In order to bring about such integration, it is necessary to establish a measure of coordination between the users and providers of the information so that information and knowledge from different sectors can be combined.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

2. The Sixth Environment Action Programme adopted by Decision No 1600/2002/EC of the European Parliament and of the Council ⁵ requires full consideration to be given to ensuring that the Community's environmental policy-making is undertaken in an integrated way, taking into account regional and local differences. A number of problems exist regarding the availability, quality, organisation, accessibility and sharing of spatial information needed in order to achieve the objectives set out in the Sixth Environment Action Programme.
3. The problems regarding the availability, quality, organisation, accessibility and sharing of spatial information are common to a large number of policy and information themes and are experienced across the various levels of public authority. Solving these problems requires measures that address exchange, sharing, access and use of interoperable spatial data and spatial data services from across the various levels of public authority and from across different sectors. An infrastructure for spatial information in the Community should therefore be established.
4. The Infrastructure for Spatial Information in the European Community, also referred to as INSPIRE, should assist policy making in relation to policies and activities that may have a direct or indirect impact on the environment.
5. INSPIRE should be based on the infrastructures for spatial information that are created by the Member States and that are made compatible with common implementing rules and are supplemented with measures at Community level. These measures should ensure that the infrastructures for spatial information created by the Member States are compatible and are useable in a Community and transboundary context.

⁵ OJ L 242, 10.9.2002, p. 1.

6. The infrastructures for spatial information in the Member States should be designed to ensure that spatial data are stored, made available and maintained at the most appropriate level; that it is possible to combine spatial data from different sources across the Community in a consistent way and share them between several users and applications; that it is possible for spatial data collected at one level of public authority to be shared between other public authorities (to the extent that the Directive imposes on such public authorities a duty to share spatial data); that spatial data are made available under conditions that do not unduly restrict their extensive use; that it is easy to discover available spatial data, to evaluate their fitness for purpose and to know the conditions applicable to their use.
7. There is a degree of overlap between the spatial information covered by this Directive and the information covered by Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information ⁶. This Directive should be without prejudice to Directive 2003/4/EC.
8. This Directive should be without prejudice to Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information, ⁷ the objectives of which are complementary to those of this Directive.
9. The establishment of an Infrastructure for Spatial Information in the European Community will represent significant added value for - and will also benefit from - other Community initiatives such as Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking ⁸ and Global Monitoring for Environment and Security (GMES): Establishing a GMES capacity by 2008.⁹ Member States should consider using the data and services resulting from Galileo and GMES as they become available, in particular those related to the time and space references from Galileo.

⁶ OJ L 41, 14.2.2003, p. 26.

⁷ OJ L 345, 31.12.2003, p. 90.

⁸ OJ L 138, 28.5.2002, p. 1.

⁹ COM(2004) 65 final

10. Many initiatives are taken at national and Community level to collect, harmonise or organise the dissemination or use of spatial information. Such initiatives may be established by Community legislation (for example by Commission Decision 2000/479/EC of 17 July 2000 on the implementation of a European pollutant emission register (EPER) according to Article 15 of Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) ¹⁰, Regulation (EC) No 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests and environmental interactions in the Community (Forest focus) ¹¹, in the framework of Community funded programmes (for example CORINE land cover, European Transport Policy Information System) or may emanate from initiatives taken at national or regional level. Not only will this Directive complement such initiatives by providing a framework that will enable them to become interoperable, it will also build upon existing experience and initiatives rather than duplicate the work that has already been done.
11. This Directive should apply to spatial data held by or on behalf of public authorities and to the use of spatial data by public authorities in the performance of their public tasks. Subject to certain conditions, however, it should also apply to spatial data held by natural or legal persons other than public authorities, provided that these natural or legal persons request this.
12. This Directive should not set requirements for the collection of new data, or for reporting such information to the Commission, since those matters are regulated by other legislation related to the environment.
13. The implementation of the national infrastructures should be progressive and, accordingly, the spatial data themes covered by this Directive should be accorded different levels of priority. The implementation should take account of the extent to which spatial data is needed for a wide range of applications in various policy areas, of the priority of actions provided for under Community policies that need harmonised spatial data and of the progress already made by the harmonisation efforts undertaken in the Member States.

¹⁰ OJ L 192, 28.7.2000, p.36.

¹¹ OJ L 324, 11.12.2003, p. 1.

14. The loss of time and resources in searching for existing spatial data or in discovering if they may be used for a particular purpose is a key obstacle to the full exploitation of the data available. Member States should therefore provide descriptions of available spatial data sets and services in the form of metadata.
15. Since the wide diversity of formats and structures in which spatial data are organised and accessed in the Community hampers the efficient formulation, implementation, monitoring and evaluation of Community legislation that directly or indirectly affect the environment, implementing measures should be provided for in order to facilitate the use of spatial data from different sources across the Member States. Those measures should be designed to make the spatial data sets interoperable and Member States should ensure that any data or information needed for the purposes of achieving interoperability is available on conditions that do not restrict its use for that purpose.
16. Network services are necessary for sharing spatial data between the various tiers of public authorities in the Community. Those network services should make it possible to discover, transform, view and download spatial data and to invoke spatial data and e-commerce services. The services of the network should work in accordance with commonly agreed specifications and minimum performance criteria in order to ensure the interoperability of the infrastructures established by the Member States. The network of services should also include the technical possibility to enable public authorities to make their spatial data sets and services available.
17. Certain spatial data sets and services relevant to Community policies that directly or indirectly affect the environment are held and operated by third parties. Member States should therefore offer third parties the possibility of contributing to the national infrastructures, provided that the cohesion and ease of use of the spatial data and spatial data services covered by those infrastructures is thereby not impaired.

18. Experience in the Member States has shown that it is important, for the successful implementation of an infrastructure for spatial information, that a minimum number of services be made available to the public free of charge. Member States should therefore make available, as a minimum and free of charge, the services for discovering spatial data sets.
19. In order to assist the integration of the national infrastructures into the infrastructure for spatial information in the Community, Member States should provide access to their infrastructures through a Community geo-portal operated by the Commission, as well as through any access points they themselves decide to operate.
20. In order to make available information from various levels of public authority, Member States should remove the practical obstacles faced in that regard by public authorities at national, regional and local level when performing their public tasks that may have a direct or indirect impact on the environment. These practical obstacles should be removed at the point where the information is to be used for the public task.
21. Public authorities need to have smooth access to relevant spatial data sets and services during the execution of their public tasks. Such an access can be hindered if it depends on individual ad hoc negotiations between authorities every time such access is required. Member States should take necessary measures to prevent such practical obstacles to the sharing of data, using for example prior agreements between public authorities.
22. The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal person performing public administrative functions under national law may involve laws, regulations, licensing or financial arrangements or administrative procedures, for instance to protect the financial viability of those public authorities that have a duty placed on them to raise revenue, or for instance whose data are only partially subsidized by the Member State so that they have to recover the unsubsidized costs by charging the users, or for instance to guarantee the maintenance and update those data.

23. The possibility for public authorities who supply spatial data sets and services to license these sets and services to and require payment from other public authorities who use these spatial data sets and services could be provided for in the measures adopted by Member States in their transposition legislation.
24. The provisions of Articles 13(1)(f) and 17(1) should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data.
25. Frameworks for the sharing of spatial data between public authorities upon whom the Directive imposes a duty to share should be neutral in respect of such public authorities within a Member State, but also in respect of such public authorities in other Member States and of the Community institutions. Since the Community institutions and bodies frequently need to integrate and assess spatial information from all the Member States, they should be able to gain access to and use spatial data and spatial data services in accordance with harmonised conditions.
26. With a view to stimulating the development of added-value services by third parties, for the benefit both of public authorities and the public, it is necessary to facilitate access to spatial data that extend over administrative or national borders.
27. The effective implementation of infrastructures for spatial information requires coordination by all those with an interest in the establishment of such infrastructures, whether as contributors or users. Appropriate coordination structures should therefore be established both in the Member States and at Community level.

28. In order to benefit from the state of the art and actual experience of information infrastructures, it is appropriate that the measures necessary for the implementation of this Directive should be supported by international standards and standards adopted by European standardisation bodies in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations¹².
29. Since the European Environment Agency set up by Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network ¹³ has the task of providing the Community with objective, reliable and comparable environmental information at Community level, and aims *inter alia* to improve the flow of policy-relevant environmental information between Member States and the Community institutions; it should contribute actively to the implementation of this Directive.
30. In accordance with paragraph 34 of the interinstitutional agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between the Directive and the transposition measures and to make them public.
31. The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹⁴.
32. Preparatory work for decisions concerning the implementation of this Directive and for the future evolution of the infrastructure for spatial information in the Community requires continuous monitoring of the implementation of the Directive and regular reporting.

¹² OJ L 204, 21.7.1998, p. 37.

¹³ OJ L 120, 11.05.1990, p. 1. Regulation as last amended by Regulation (EC) No 1641/2003 of European Parliament and of the Council (OJ L 245, 29.9.2003, p. 1)

¹⁴ OJ L 184, 17.7.1999, p. 23.

33. The objective of this Directive, namely the establishment of an infrastructure for spatial information in the Community, cannot be sufficiently achieved by the Member States because of the transnational aspects and because of the general need within the Community to co-ordinate the conditions of access to, exchange and sharing of spatial information. It can therefore be better achieved at Community level, and the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:
