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STATEMENT OF THE COUNCIL'S REASONS

Subject: COMMON POSITION adopted by the Council 23 January 2006 with a view to the adoption of a Directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 26 July 2004, the Commission submitted to the Council its proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE). The proposal is based on Article 175(1) of the Treaty.

On 7 June 2005, the European Parliament adopted its Opinion at first reading.

On 20 September 2004, the Committee of the Regions decided not to deliver an opinion.

On 9 February 2005, the Economic and Social Committee adopted its Opinion.

On 23 January 2006., the Council adopted its common position in accordance with Article 251(2) of the Treaty.

II. OBJECTIVE

The proposed Directive creates a legal framework for the establishment and operation of an infrastructure for spatial information in Europe for the purpose of formulating, implementing, monitoring and evaluating Community policies at all levels and providing public information.

A key objective of INSPIRE is to reduce obstacles between public authorities in sharing data, especially in the field of the environment and to make more and better spatial data available for Community policy-making and implementation of Community policies in Member States at all levels. INSPIRE focuses on environmental policy, but is open for use by and future extension to other sectors.

III. ANALYSIS OF THE COMMON POSITION

General

The common position incorporates the majority of the European Parliament's first-reading amendments, either verbatim, in part or in spirit. In particular, it includes modifications to the Commission' s initial proposal regrouping Articles of the text, streamlining the definitions and clarifying the scope. However, the common position includes a number of changes other than those envisaged in the European Parliament's Opinion at first reading and in the Commission' s initial proposal. The common position:

- sets out the conditions for public access to spatial data sets and services and sharing of data between public authorities in the framework of existing Community legislation;
- clarifies the possibility of licensing to and requiring payment from other public authorities for spatial data sets and services; and
- introduces measures to reach the objectives of the Directive in a balanced and more effective way (rationalisation of the provisions for monitoring and reporting, cost-benefit analysis).

The following sections describe the changes of substance.

General provisions, definitions, scope (Articles 1 to 4)

The common position does not follow EP amendment 6. The aim and scope of the Directive in Article 1 correspond with the Commission's initial proposal and its legal basis. The text of the common position does not refer to "direct or indirect" impact on the environment, however, additional recital 4 addresses this issue.

The Council agrees with the substance of EP amendment 7 and related amendment 2. However, it accepted the Commission' s view that it would not be legally sound to include obligations for Community institutions and bodies in a directive.

Article 2 states that the Directive would apply without prejudice to Directive 2003/4/EC on public access to environmental information and 2003/98/EC on the re-use of public sector information.
Article 3 introduces additional definitions of the terms "interoperability", "INSPIRE geo portal" and limits the scope of the definition of "public authority".
Paragraphs (2), (4), (5) and (6) of Article 4 clarify the scope of spatial data sets covered by the Directive. Article 4(7) limits the extent of the competence of the committee to adapt the data themes in the Annexes.
Amendments 9 and 10 were not accepted because the Council does not believe that they clarify the text.

Metadata, Interoperability of spatial data sets and services (Articles 5 to 10)

The components of the metadata are clarified in Article 5 of the common position as well as the implementation rules. The time schedule for creation of the metadata in Article 6 is consistent with the timetable in EP amendment 15, taking into account the new wording of Article 5 (4) of the common position.
Article 7 introduces additional conditions for the drafting of the implementing rules laying down technical arrangements for interoperability, particularly the cost-benefit consideration, integration of standards and activities at international level and reference to existing technical means. Cost-benefit and feasibility considerations are backed up by Article 7(2), which requires the Commission to undertake a cost-benefit analysis prior to developing the proposals for the implementing rules. The adoption of these rules shall not result in excessive costs to a Member State. Article 7(3) clarifies the adaptation of newly collected and other spatial data sets and services.
Article 8(2)(a) replaces "a common system of unique identifiers" by "solutions to ensure unambiguous identification of spatial objects, to which identifiers under existing national systems can be mapped in order to ensure interoperability between them" in order to avoid the imposition of a particular technical solution.

Amendments 13, 14, 16, 17, 18, 19, 21, 22 and 23 were taken on board either fully or in part within reworded text.
Amendment 20 was not accepted since the reference to "indirect impact on the environment" was considered too vague (see Article 1).

Network services (Articles 11 to 16)

The extended list of grounds for limiting access set out in Article 13 is identical to that in Article 4(2) of Directive 2003/4/EC on public access to environmental information to ensure consistence in the implementation. Additional Article 13(3) provides that public access to spatial data complies with Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
In Article 14, the common position allows Member States to apply charges and/or licences for view services, where this is necessary to maintain the spatial data sets and services or to fulfil requirements of existing international spatial data infrastructures.
Amendments 24, 25, 26 and 27 were accepted within reworded text.

Data-sharing (Article 17)
Article 17 of the common position clarifies the scope of data-sharing obligations between the public authorities of one Member State, the public authorities of different Member States, the institutions and bodies of the Community and the bodies established by international agreements. Article 17(2) seeks to prevent practical obstacles at the point of use (for example, a public authority employee using the data on their computer) while Article 17(3) allows data providers to recover their costs from the public authorities of Member States and Community bodies, thus ensuring that the quality and currency of the data are maintained. Where charging occurs, it is at the public authority level, not at the point of use. Protection of intellectual property rights is ensured by Article 17(9). New recitals 22, 23 and 24 also address these issues. Amendment 28 is addressed in recital 21.
Amendment 29 was not accepted as redundantly extending the data-sharing requirements.
Amendment 30 is superseded by the new wording of Article 17.
The whole concept of the original Article 24 - common implementing rules for data-sharing - (amendment 32) is not acceptable to the Council.

Coordination and complementary measures, final provisions (Articles 18 to 26)

There is no explicit stress on the distribution of powers and responsibilities within the Member States in relation to their structures involved (amendments 33, 34 and 4) in Article 18 and 19(2) of the common position, however, the Council understands the Articles in this sense.
The new wording of Article 21 and additional recital 31 of the common position rationalise the monitoring and reporting requirements of the Directive compared to amendment 37.
Article 24 slightly defers the transposition date.
Amendments 35, 36 and 38 have been accepted.

Annexes

Spatial data themes "distribution of road accidents" (amendment 43, paragraph 6) and "telecommunications" (amendment 44, paragraph 7) are not included in the common position as they are not related to the purpose of INSPIRE.
Amendment 47 was partly accepted in Annex III, paragraph 11.
Amendments 39, 40, 41, 42, 45, 46, 48 and 49 have been accepted.

IV. CONCLUSION

The changes made by the Council to the Commission' s proposal aim to ensure compatibility with existing Community legislation and sustainable collection of data. Despite these changes, the Council's common position is in line with the majority of the European Parliament's amendments and establishes a good basis for further negotiations.