



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 June 2006

10372/06

**Interinstitutional File:
2004/0175 (COD)**

**CODEC 618
ENV 348
STATIS 39
RECH 171**

NOTE

from:	General Secretariat
to:	Permanent Representatives' Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE) – Outcome of the European Parliament's second reading (Strasbourg, 12 to 15 June 2006)

I. INTRODUCTION

The Rapporteur, Mrs Frieda BREPOELS (EPP/ED - BE), presented a recommendation containing 36 amendments to the proposal for a Directive, on behalf of the Committee on the Environment, Public Health and Food Safety. No further amendments were tabled by the political groups at the plenary sitting.

II. DEBATE

During the debate in plenary on 12 June 2006, the Rapporteur:

- stressed the need for better access to spatial information;
- stated her desire to promote the sharing of spatial information, the compilation of new spatial information, and closer cross-border cooperation;
- cited flooding, forest fires, fisheries and avian influenza as four examples of areas where INSPIRE could assist planning;
- noted that the common position had not taken account of the Parliament's first reading vote to make it obligatory for spatial information on the internet to be searchable and accessible free of charge. Free of charge downloading is not on the agenda, however; though possible, it is not necessary. There will be no interference with the sale of maps;
- stressed that the Parliament does not want to weigh INSPIRE down with ongoing analysis and additional feasibility studies which would overwhelm INSPIRE before it got off the ground; and
- emphasised that intellectual property rights are not in themselves sufficient reason to deny access to data. Where data is exchanged between government agencies, it would be possible to require payment or licences.

Commissioner Dimas:

- noted that INSPIRE is a good opportunity to provide added value at the European level;
- noted that the Commission opposed the common position because it would weaken important elements contained in the Commission's proposal, especially with regard to public on-line access to spatial data, to the removal of obstacles to common use, and to implementation criteria. The amendments of the Committee on the Environment, Public Health and Food Safety would go a long way towards remedying these defects in the common position; and
- pledged the Commission's good offices during the expected conciliation procedure, but cautioned that both the Parliament and the Council will have to make concessions if an agreement is to be reached in conciliation.

Speaking on behalf of the EPP/ED group, Mr John BOWIS (EPP/ED - UK):

- noted that all parties support the idea of promoting greater public access to information;
- warned that the United Kingdom's Ordnance Survey is concerned that the Directive will prevent it from charging for services. The Ordnance Survey would therefore have to be funded directly from the British public purse; and
- noted concerns that unrestricted access to meta-data may compromise national defence, for example by allowing the identification of naval patrol routes.

Speaking on behalf of the PES group, Mrs María SORNOSA MARTÍNEZ (PES - ES):

- noted that INSPIRE will improve spatial information, and that this will in turn assist in the monitoring of the implementation of environmental legislation; and
- expressed the hope that the conciliation procedure will result in a good final text.

Speaking on behalf of the NI group, Mr James ALLISTER (NI - UK):

- noted that the United Kingdom's Ordnance Survey is a world leader;
- welcomed the fact that the common position had protected the Ordnance Survey's valuable intellectual property rights; and
- warned that the amendments of the Committee on the Environment, Public Health and Food Safety will damage both the Ordnance Survey and the financial sustainability of data collection in the United Kingdom and elsewhere.

Mr Richard SEEBER (EPP/ED – AT):

- stated that there is a need to know who produces and owns spatial data in the environmental field;
- called for this data to be collected and disseminated; and
- stressed the need to clarify the financial dimension, and the need to avoid causing a loss of revenue to local and regional authorities.

Mrs Evangelia TZAMPAZI (PES – EL) stressed the need for spatial information to be accessible via the internet and without restrictions.

Commissioner Dimas once more took the floor to outline the Commission's position on some of the key proposed amendments:

- **amendments 13 and 14:** the Commission can accept these amendments in full because they improve the procedures for adopting implementing rules, and because they ensure that they will be uniformly applied in all Member States;
- **amendment 15:** the Commission cannot accept this amendment because it would delete an important clarification contained in the text of the common position;
- **amendments 18 - 22:** the Commission can accept these amendments in full, with the exception of amendment 21 which the Commission can accept only in principle. The Commission can in general support the intention behind amendment 21 of restoring the originally proposed provision which would have given the public access to view data free of charge. There are nevertheless some types of data (for example, meteorological) where the data is simply too extensive and/or of only temporary interest; and
- **amendments 23-27:** the Commission can accept these amendments in full, with the exception of amendment 24, of which the Commission can only accept the first - but not the second - part. The first part of amendment 24 is of crucial importance because it requires public data providers to make their charging and licensing practices comply with the overall obligation to share data. The second part of amendment 24, however, deals with the level of fees and may not be applicable in all cases.

III. VOTE

When it voted in plenary on the following day, 13 June 2006, the parliament adopted all the 36 amendments which had been tabled on behalf of the Committee on the Environment, Public Health and Food Safety.

The position of the Commission with regard to the adopted amendments is as follows:

(i) adopted amendments which the Commission can accept in their entirety

These were amendments 1-3, 5-7, 9-11, 13-14, 16-20, 22-23 and 25-36.

(ii) adopted amendments which the Commission can accept, in part or in principle

These were amendments 4, 8, 12, 21 and 24.

(ii) adopted amendment which the Commission cannot accept

This was amendment 15.

The text of the amendments adopted and the European Parliament's legislative resolution are annexed to this note.

(13.6.2006)

Infrastructure for Spatial Information in the European Community (INSPIRE)

*****II**

European Parliament legislative resolution on the Council common position for adopting a directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (12064/2/2005 – C6-0054/2006 – 2004/0175(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (12064/2/2005 – C6-0054/2006)¹,
 - having regard to its position at first reading² on the Commission proposal to Parliament and the Council (COM (2004)0516)³,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0081/2006),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 126 E, 30.5.2006, p. 16.

² OJ C 124 E, 25.5.2006, p. 116.

³ Not yet published in OJ.

Amendment 1
Recital 6

(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 this Directive imposes on such public authorities a duty to share spatial data*; that spatial data are made available under conditions which do not unduly restrict their extensive use; that it is easy to discover available spatial data, to evaluate their suitability for the purpose and to know the conditions applicable to their use.

(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; that spatial data are made available under conditions which do not unduly restrict their extensive use; that it is easy to discover available spatial data, to evaluate their suitability for the purpose and to know the conditions applicable to their use.

Amendment 2
Recital 18

(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.

(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 *and viewing* spatial data sets.

Amendment 3
Recital 20

(20) In order to make information from various levels of public authority available, 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.***

(20) In order to make information from various levels of public authority available, 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.

Amendment 4
Recital 22

(22) The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal persons 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 subsidised by the Member State so that they have to recover the unsubsidised costs by charging the users, or for instance to guarantee the maintenance and update of those data.***

(22) The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal persons performing public administrative functions under national law ***should take into account the need to protect the financial viability of public authorities, in particular those who have a duty to raise revenue. In any event the costs should not exceed the cost of collection, production, reproduction and dissemination.***

Amendment 5
Recital 22 a (new)

(22a) The provisions of this Directive do not affect the existence or ownership of public sector authorities' intellectual property rights.

Amendment 6
Recital 23

(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. **deleted**

Amendment 7
Recital 24

(24) The provisions of point (f) of Article 13(1) and of Article 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 on the free movement of such data.

(18a) The provision of network services should be carried out 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 on the free movement of such data.

Amendment 8
Recital 27

(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.

(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 which extend to the various levels of government and take account of the distribution of powers and responsibilities within the Member States.

Amendment 9

Article 2

This Directive is without prejudice to **Directives 2003/4/EC and 2003/98/EC.**

1. This Directive is without prejudice to Directive 2003/4/EC, save where otherwise provided.

2. This Directive is without prejudice to Directive 2003/98/EC.

Amendment 10

Article 4, paragraph 7

7. The **technical description of the** data themes referred to in Annexes I, II and III may be adapted in accordance with the procedure referred to in Article 22(2), in order to take into account the evolving needs for spatial data in support of Community policies that affect the environment.

7. The **spatial** data themes referred to in Annexes I, II and III may be adapted in accordance with the procedure referred to in Article 22(2), in order to take into account the evolving needs for spatial data in support of Community policies that affect the environment.

Amendment 11

Article 5, paragraph 2, point (c)

(c) the quality of spatial data, **including whether they are validated;**

(c) the quality **and validity** of spatial data;

Amendment 12

Article 6

Member States shall create the metadata referred to in Article 5 in accordance with the following timetable:

(a) not later than **2 years after the date of adoption of implementing rules in accordance with Article 5(4)** in the case of the spatial data sets corresponding to the themes listed in Annexes I and II;

(b) not later than **5 years after the date of adoption of implementing rules in accordance with Article 5(4)** in the case of the spatial data sets corresponding to the themes listed in Annex III.

Member States shall create the metadata referred to in Article 5 in accordance with the following timetable:

(a) not later than ... * in the case of the spatial data sets corresponding to the themes listed in Annexes I and II;

(b) not later than ... ** in the case of the spatial data sets corresponding to the themes listed in Annex III.

*** Three years following the date of entry into force of this Directive.**

**** Six years following the date of entry into force of this Directive.**

Amendment 13
Article 7, paragraph 2

2. As a basis for developing the proposals for such implementing rules, the Commission shall undertake an analysis of the feasibility and expected costs and benefits. Member States shall, on request, provide the Commission with the information necessary to enable it to **prepare this analysis. When proposing such rules, the Commission shall consult Member States within the Committee referred to in Article 22(1) on the results of its analysis. The adoption of such rules shall not result in excessive costs to a Member State.**

2. Member States shall, on request, provide the Commission with the information necessary to enable it to **take into account feasibility and cost-benefit considerations as provided for in paragraph 1.**

Amendment 14
Article 7, paragraph 3

3. To the extent feasible, Member States shall ensure that all newly collected or updated spatial data sets and the corresponding spatial data services are brought into conformity with the implementing rules referred to in paragraph 1 within two years of their adoption, and that other spatial data sets and services are brought into conformity with the implementing rules within seven years of their adoption.

3. Member States shall ensure that all newly collected or updated spatial data sets and the corresponding spatial data services are brought into conformity with the implementing rules referred to in paragraph 1 within two years of their adoption, and that other spatial data sets and services are brought into conformity with the implementing rules within seven years of their adoption.

Amendment 15
Article 7, paragraph 5

5. Representatives of Member States at national, regional and local level as well as other natural or legal persons with an interest in the spatial data concerned by virtue of their role in the infrastructure for spatial information, including users, producers, added value service providers or any coordinating body shall be given the opportunity, ***in accordance with applicable procedures***, to participate in preparatory discussions on the content of the implementing rules referred to in paragraph 1, prior to consideration by the Committee referred to in Article 22(1).

5. Representatives of Member States at national, regional and local level as well as other natural or legal persons with an interest in the spatial data concerned by virtue of their role in the infrastructure for spatial information, including users, producers, added value service providers or any coordinating body shall be given the opportunity to participate in preparatory discussions on the content of the implementing rules referred to in paragraph 1, prior to consideration by the Committee referred to in Article 22(1).

Amendment 16
Article 8, paragraph 2, point (a)

(a) ***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;

(a) ***a common system of unique identifiers for*** spatial objects, to which identifiers under existing national systems can be mapped in order to ensure interoperability between them;

Amendment 17
Article 11, paragraph 2, point (c)

(c) the quality of spatial data, ***including whether they are validated***;

(c) the quality ***and validity*** of spatial data;

Amendment 18
Article 13, paragraph 1, introductory part

1. By way of derogation from Article 11(1), Member States may limit public access to spatial data sets and services through the services referred to in points (a) to (e) of Article 11(1), or to the e-commerce services referred to in Article 14(3), where such access would adversely affect any of the following:

1. By way of derogation from ***Article 4(2) of Directive 2003/4/EC and Article 11(1) of this Directive***, Member States may limit public access to spatial data sets and services through the services referred to in points (b) to (e) of Article 11(1), or to the e-commerce services referred to in Article 14(3), where such access would adversely affect any of the following:

Amendment 19
Article 13, paragraph 1, point (e)

(e) intellectual property rights; **deleted**

Amendment 20
Article 13, paragraph 2, subparagraph 2

However, in cases where paragraph 1(d) or (f) is the ground for limiting access, the first subparagraph of this paragraph shall apply only when the access referred to in paragraph 1 concerns environmental information as defined in Article 2(1) of Directive 2003/4/EC. **deleted**

Amendment 21
Article 14, paragraph 1

1. Member States shall ensure that:

1. Member States shall ensure that the services referred to in **points (a) and (b)** of Article 11(1) are available to the public free of charge.

(a) the services referred to in point (a) of Article 11(1) are available to the public free of charge;

(b) the services referred to in point (b) of Article 11(1) are, as a rule, available to the public free of charge. However, in cases where charges and/or licences are an essential precondition for maintaining the spatial data sets and services or for fulfilling the requirements of already existing international spatial data infrastructure in a sustainable way, Member States may apply charges and/or licences either to the person providing the service to the public, or, where the service provider chooses, to the public itself.

Amendment 22
Article 14, paragraph 3

3. Where public authorities levy charges for the services referred to in points **(b)**, (c) or (e) of Article 11(1), Member States shall ensure that e-commerce services are available. Such services may be covered by disclaimers, click-licences **or licences**.

3. Where public authorities levy charges for the services referred to in points (c) or (e) of Article 11(1), Member States shall ensure that e-commerce services are available. Such services may be covered by disclaimers **or** click-licences.

Amendment 23
Article 17, paragraph 2

2. The measures provided for in paragraph 1 shall preclude any restrictions likely to create, **at the point of use**, practical obstacles to the sharing of spatial data sets and services.

2. The measures provided for in paragraph 1 shall preclude any restrictions likely to create practical obstacles to the sharing of spatial data sets and services.

Amendment 24
Article 17, paragraph 3

3. **The provisions of** paragraph 2 **shall not prevent** public authorities that supply spatial data sets and services **from licensing** them to, and **requiring** payment from, the public authorities or institutions and bodies of the Community that use these spatial data sets and services.

3. **Without prejudice to** paragraph 2, **Member States may allow** public authorities that supply spatial data sets and services **to license** them to, and/or **require** payment from, the public authorities or institutions and bodies of the Community that use these spatial data sets and services. **In any event, where charges are made, the total income from supplying documents shall not exceed the cost of collection, production, reproduction and dissemination.**

Amendment 25
Article 17, paragraph 6

6. Where the arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 are made available in accordance with paragraphs 4 and 5, these arrangements may be accompanied by **national** requirements conditioning their use.

6. Where the arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 are made available in accordance with paragraphs 4 and 5, these arrangements may, **without prejudice to paragraph 2**, be accompanied by requirements **under national law** conditioning their use.

Amendment 26
Article 17, paragraph 8

8. ***Without prejudice to paragraph 3,*** Member States shall provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions. Implementing rules governing those conditions shall be adopted in accordance with the procedure referred to in Article 22(2).

8. Member States shall provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions. Implementing rules governing those conditions shall be adopted in accordance with the procedure referred to in Article 22(2).

Amendment 27
Article 17, paragraph 9

9. ***This Article does not affect the existence or ownership of public sector authorities' intellectual property rights.***

deleted

Amendment 28
Article 18, paragraph 1

Member States shall ensure that appropriate structures and mechanisms for coordinating the contributions of all those with an interest in their infrastructures for spatial information ***are designated***.

Member States shall ensure that appropriate structures and mechanisms ***are designated*** for coordinating, ***across the different levels of government,*** the contributions of all those with an interest in their infrastructures for spatial information.

Amendment 29
Article 19, paragraph 2

2. Each Member State shall designate a contact point, usually a public authority, to be responsible for contacts with the Commission in relation to this Directive.

2. Each Member State shall designate a contact point, usually a public authority, to be responsible for contacts with the Commission in relation to this Directive. ***This contact point will be supported by a coordination structure, taking account of the distribution of powers and responsibilities within the Member State.***

Amendment 30
Article 21, paragraph 2, point (a)

(a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance, *as far as practicable*;

(a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance;

Amendment 31
Article 24, paragraph 1, footnote

* *Three years* following the date of entry into force of this Directive.

* *Two years* following the date of entry into force of this Directive.

Amendment 32
Annex I, point 4 a (new)

4a. Addresses

Location of properties based on address identifiers, usually by road name, house number, postal code.

Amendment 33
Annex I, point 4 b (new)

4b. Cadastral parcels

Areas defined by cadastral registers or equivalent.

Amendment 34
Annex II, point 2

2. Addresses

Location of properties based on address identifiers, usually by road name, house number, postal code.

deleted

Amendment 35
Annex II, point 3

3. Cadastral parcels

deleted

Areas defined by cadastral registers or equivalent.

Amendment 36
Annex III, point 11

Areas managed, regulated or used for reporting at international, European, national, regional and local levels. Includes dumping sites, restricted areas around drinking water sources, nitrate-vulnerable zones, regulated fairways at sea or large inland waters, areas for the dumping of waste, noise restriction zones, prospecting and mining permit areas, river basin districts, relevant reporting units and coastal zone management areas.

Areas managed, regulated or used for reporting at international, European, national, regional and local levels. Includes dumping sites, restricted areas around drinking water sources, nitrate-vulnerable zones, regulated fairways at sea or large inland waters, areas for the dumping of waste, noise restriction zones, **radiation zones**, prospecting and mining permit areas, river basin districts, relevant reporting units and coastal zone management areas.