

歐洲議會暨理事會準則 2003/4/EC

**「關於公眾取得環保資訊以及廢止
理事會 90/313/EEC 準則」**

二〇〇三年一月二十八日

**DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

**on public access to environmental information and
repealing Council Directive 90/313/EEC**

of 28 January 2003

歐洲議會及歐洲聯盟理事會，

基於建立歐洲共同體條約，特別是第 175 (1) 條，

基於執委會的提案^①，

基於經濟暨社會委員會的意見^②，

基於區域委員會的意見^③，

依條約第 251 條^④所規定之程序，由調解委員會於二〇〇二年十一月八日通過之共同文本，

鑒於：

- (1) 公眾取得環保資訊與此類資訊傳播之增加，將有助於擴大環保意識之面向、意見的自由交流，以及公眾參與環保決策之效率，最終創造一個更優質之環境。
- (2) 理事會於一九九〇年六月七日通過 90/313/EEC 有關自由獲取環保資訊之準則^⑤，藉由導入公眾取得環保資訊權行使之措施，開始產生了行政機關以公開性與透明性處理之方式與種類的變遷程序，而這樣的發展應予以擴大並持續下去。此準則因而擴大現行 90/313/EEC 準則所賦予之資訊取得權的範圍。
- (3) 90/313/EEC 準則第八條要求會員國向執委會報告其獲得之執行經驗，執委會須依此向歐洲議會及理事會提

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 in the light of the joint text approved by the Conciliation Committee on 8 November 2002,

Whereas:

- (1) Increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually, to a better environment.
- (2) Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment^⑤ initiated a process of change in the manner in which public authorities approach the issue of openness and transparency, establishing measures for the exercise of the right of public access to environmental information which should be developed and continued. This Directive expands the existing access granted under Directive 90/313/EEC.
- (3) Article 8 of that Directive requires Member States to report to the Commission on the experience gained, in the light of which the

出報告，連同所有有關修改此準則之提案。

- (4) 依 90/313/EEC 準則第八條提出之報告，發現前述準則實際適用上所面臨之具體問題。
- (5) 一九九八年六月二十五日共同體簽署了聯合國歐洲經濟委員會（UN/ECE）有關環保事件中取得資訊、公眾參與決策以及司法救濟請求權之公約（又稱「Aarhus 公約」）。為達成歐洲共同體締約之目的，共同體法之規範必須符合前述公約之精神。
- (6) 為加強資訊之透明化，應以立法方式取代 90/313/EEC 準則，而非僅修改其內容。如此方得以提供相關當事人一份單一、清楚與一致性的立法文本。
- (7) 各會員國現行法律中有關取得行政機關持有或提供之環保資訊存有其差異性，因而導致共同體內有關取得此類資訊或競爭條件存有不公平的情形。
- (8) 應確保任何自然人或法人在不須聲明其利益之情形下，擁有取得行政機關環保資訊之權力。
- (9) 行政機關實有必要特別藉由使用資訊與傳播等技術，在儘可能之範圍內宣傳並提供一般大眾相關環保資訊。此準則之報告與檢視內容，應作為未來前述技術發展之考量面向。

Commission is required to make a report to the European Parliament and to the Council together with any proposal for revision of the Directive which it may consider appropriate.

- (4) The report produced under Article 8 of that Directive identifies concrete problems encountered in the practical application of the Directive.
- (5) On 25 June 1998 the European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ('the Aarhus Convention'). Provisions of Community law must be consistent with that Convention with a view to its conclusion by the European Community.
- (6) It is appropriate in the interest of increased transparency to replace Directive 90/313/EEC rather than to amend it, so as to provide interested parties with a single, clear and coherent legislative text.
- (7) Disparities between the laws in force in the Member States concerning access to environmental information held by public authorities can create inequality within the Community as regards access to such information or as regards conditions of competition.
- (8) It is necessary to ensure that any natural and legal person has a right of access to environmental information held by or for public authorities without his having to state an interest.
- (9) It is also necessary that public authorities make available and disseminate environmental information to the general public to the widest extent possible, in particular by using information and communication technologies. The future development of these technologies should be taken into account in the reporting on, and review-

(10) 應清楚闡釋環保資訊之定義，以便涵蓋任何類型的資訊，諸如環境情形、影響因素、產生影響或是可能影響環境或用來保護環境之措施與活動、此類措施或活動中之成本效益與經濟分析、人類健康與安全情形之資訊，包含食物鏈之污染、人類生活條件、文化遺址及其眾多之建築架構、或是可能被任何此類議題影響之資訊。

(11) 依據共同體條約第六條的原則，規範環境保護之規定應與共同體政策及活動之定義和執行相結合之情況下，應擴大行政機關之定義，以便涵蓋政府或其他屬國家、區域或地方層級之行政機關，無論其是否具有特殊之環保職責。同樣地，行政機關之定義應擴大到涵蓋其他法人或團體，其職責為執行有關國家環保法規之行政機關職務，以及其他在自行控管下行動並具有環保相關之公共職責或職務的法人或團體。

(12) 實質上由其他代表行政機關的團體，其所持有之環保資訊亦應納入此項準則之涵蓋範圍內。

(13) 在合理的時間內，並考量申請者指定的時間範圍，行政機關應儘速提供申請者所須之環保資訊。

ing of, this Directive.

(10) The definition of environmental information should be clarified so as to encompass information in any form on the state of the environment, on factors, measures or activities affecting or likely to affect the environment or designed to protect it, on cost-benefit and economic analyses used within the framework of such measures or activities and also information on the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they are, or may be, affected by any of those matters.

(11) To take account of the principle in Article 6 of the Treaty, that environmental protection requirements should be integrated into the definition and implementation of Community policies and activities, the definition of public authorities should be expanded so as to encompass government or other public administration at national, regional or local level whether or not they have specific responsibilities for the environment. The definition should likewise be expanded to include other persons or bodies performing public administrative functions in relation to the environment under national law, as well as other persons or bodies acting under their control and having public responsibilities or functions in relation to the environment.

(12) Environmental information which is physically held by other bodies on behalf of public authorities should also fall within the scope of this Directive.

(13) Environmental information should be made available to applicants as soon as possible and within a reasonable time and having regard

- (14) 除非資訊已以其他類型或形式公開，或是資訊得以其他類型或形式取得屬合理情形下，否則行政機關應提供依申請者要求類型與形式的環保資訊。此外，行政機關應於合理情形下盡所有之力，以容易重製和取得之電子格式類型與形式，保存與維持其所持有之環保資訊。
- (15) 會員國應針對讓資訊得有效被取得之目標，進行實質技術之安排。此類安排須保障資訊得容易及有效被獲取，並逐步增進透過公共電訊網絡，提供大眾此類資訊，包含行政機關與註冊登錄者之名單或是行政機關持有或提供之環保資訊清單。
- (16) 取得資訊權應定義為：資訊公開應依循一般性原則，而行政機關得以拒絕提供特殊或明確案件中環保資訊之要求。拒絕之由為資訊公開應屬有限度，在公開與拒絕公開資訊兩者利益間進行權衡。依據此準則，行政機關應在期限內提供申請者，其拒絕公開資訊之由。
- (17) 在可以從申請者要求之資訊中抽離出任何屬例外範圍資訊之情況下，行政機關應公開部份環保資訊。

to any timescale specified by the applicant.

- (14) Public authorities should make environmental information available in the form or format requested by an applicant unless it is already publicly available in another form or format or it is reasonable to make it available in another form or format. In addition, public authorities should be required to make all reasonable efforts to maintain the environmental information held by or for them in forms or formats that are readily reproducible and accessible by electronic means.
- (15) Member States should determine the practical arrangements under which such information is effectively made available. These arrangements shall guarantee that the information is effectively and easily accessible and progressively becomes available to the public through public telecommunications networks, including publicly accessible lists of public authorities and registers or lists of environmental information held by or for public authorities.
- (16) The right to information means that the disclosure of information should be the general rule and that public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases. Grounds for refusal should be interpreted in a restrictive way, whereby the public interest served by disclosure should be weighed against the interest served by the refusal. The reasons for a refusal should be provided to the applicant within the time limit laid down in this Directive.
- (17) Public authorities should make environmental information available in part where it is possible to separate out any information falling within the scope of the exceptions from the rest of the informa-

- (18) 行政機關可收取因提供任何環保資訊之費用，然而此類索費不應超出合理的範圍。此點意味，依循一般原則，收取之費用不得超出材料之實際工本費。例如費用提升應受限制。然在特殊情況下，當行政機關提供商業用途之環保資訊，以及為保障收集與公告此類資訊之連續性等必要情況下，市場導向之索費則視為是合理行為，費用之提昇則視為必須。行政機關應公告其索費表，並提供申請者有關費用收取及退費情況之相關資訊。
- (19) 申請者得尋求行政或司法救濟，請求審查其申請過程中行政機關之作為或疏忽之處。
- (20) 行政機關應確保其收集之環保資訊的易讀性、正確性及可相較性。由於此為評估提供資訊品質的一項重要因素，依要求須公開資訊收集之方法。
- (21) 為增進公眾之環保意識及改善環保品質，行政機關在適當及可行之情況下，應公開和傳播與其職權相關之環保資訊，特別藉由電腦通訊和（或）電子形式等技術。

- tion requested.
- (18) Public authorities should be able to make a charge for supplying environmental information but such a charge should be reasonable. This implies that, as a general rule, charges may not exceed actual costs of producing the material in question. Instances where advance payment will be required should be limited. In particular cases, where public authorities make available environmental information on a commercial basis, and where this is necessary in order to guarantee the continuation of collecting and publishing such information, a marketbased charge is considered to be reasonable; an advance payment may be required. A schedule of charges should be published and made available to applicants together with information on the circumstances in which a charge may be levied or waived.
- (19) Applicants should be able to seek an administrative or judicial review of the acts or omissions of a public authority in relation to a request.
- (20) Public authorities should seek to guarantee that when environmental information is compiled by them or on their behalf, the information is comprehensible, accurate and comparable. As this is an important factor in assessing the quality of the information supplied the method used in compiling the information should also be disclosed upon request.
- (21) In order to increase public awareness in environmental matters and to improve environmental protection, public authorities should, as appropriate, make available and disseminate information on the environment which is relevant to their functions, in particular by means of computer telecommunication and/or electronic technol-

(22) 此準則生效後，依據執行經驗、會員國提交之相關報告以及據此提出之相關修正內容，每四年應對此準則進行一次評估。執委會須向歐洲議會及理事會提出評估報告。

(23) 會員國未能有效達成準則定訂之目標，而由共同體執行較易達成時，共同體得依條約第五條定訂之輔助原則採行相關措施。依據同條定訂之比例原則，此準則之任何規範不得踰越為實現其目標所須之行為。

(24) 此準則之規定不得影響會員國維持或採行超越此準則標準，提供更廣泛取得資訊之權力，

發布以下準則：

第一條 目標

此準則之目標為：

- (a) 保障取得行政機關持有或由其提供的環保資訊權力、設置其運作方式之基本規範、條件與實質技術之安排；以及
- (b) 確保實際上逐步公開與傳播環保資訊給公眾，以達成最廣泛可行之方式並有系統地公開與傳播環保資訊給

ogy, where available.

(22) This Directive should be evaluated every four years, after its entry into force, in the light of experience and after submission of the relevant reports by the Member States, and be subject to revision on that basis. The Commission should submit an evaluation report to the European Parliament and the Council.

(23) Since the objectives of the proposed Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, 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.

(24) The provisions of this Directive shall not affect the right of a Member State to maintain or introduce measures providing for broader access to information than required by this Directive,

HAVE ADOPTED THIS DIRECTIVE:

Article 1 Objectives

The objectives of this Directive are:

- (a) to guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise; and
- (b) to ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in or-

大眾之目標。為達成此一目標，在可行之範圍內應特別提昇電腦通訊和（或）電子技術之使用。

第二條 定義

為達成此準則之目的：

1. 「環保資訊」應定義為，任何以文字、影像、聲音、電子或任何其他媒介形式所提供之資訊，其涵蓋內容如下：
 - (a) 環境組成要素之情形，諸如天空、空氣、水、土壤、土地、景觀、自然遺址，包括溼地、海岸與海洋地區、生物多樣性及其組成，包括基因改造有機體，以及前述要素間之互動關係；
 - (b) 環境因素，諸如物質、能源、噪音、放射物或廢棄物，包含放射性廢棄物、放射、排放及其他釋放到環境之物體，其將產生影響或可能影響上開(a)款所列之環境要素；
 - (c) 措施（包含行政措施），諸如政策、立法、計劃、方案、環保協定、產生影響之活動或可能影響上開(a)、(b)款所列要素與因素之活動，及設計來保護此類要素之措施或活動；
 - (d) 針對環保立法之執行提出報告；
 - (e) 成本利益、其他經濟分析，以及在上開(c)款所列措

der to achieve the widest possible systematic availability and dissemination to the public of environmental information. To this end the use, in particular, of computer telecommunication and/or electronic technology, where available, shall be promoted.

Article 2 Definitions

For the purposes of this Directive:

1. 'Environmental information' shall mean any information in written, visual, aural, electronic or any other material form on:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
 - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
 - (d) reports on the implementation of environmental legislation;
 - (e) cost-benefit and other economic analyses and assumptions used

施和活動架構下使用之假設；以及

- (f) 人類健康與安全情形之資訊，包含食物鏈之污染、相關之人類生活條件、文化遺址及其眾多之建築架構、或可能被上開(a)款所列環境要素、或上開(b)、(c)款所列環境因素及任何此類議題影響之資訊。

2. 「行政機關」指：

- (a) 政府或其他公行政處所，包含國家、區域及地方層級之政府顧問團體；
(b) 在國家法律規範下執行公共行政職務之所有自然人或法人，包含與環保有關之特殊任務、活動或服務；以及
(c) 受上開(a)或(b)款所列團體或自然人與法人監督之擔負與環保相關公共責任或職務，或服公職之所有自然人或法人。

會員國得規定，此定義不包含執行司法或立法權的組織或機構。在此準則之頒佈日，若會員國憲法條款中仍未規範第六條定義之審查程序，會員國得將此類組織或機構排除在上述定義之外。

3. 「行政機關持有之資訊」指由當局自行提出或獲得之環保資訊。

4. 「行政機關提供之相關資訊」指實際上由代表行政機

within the framework of the measures and activities referred to in (c); and

- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

2. 'Public authority' shall mean:

- (a) government or other public administration, including public advisory bodies, at national, regional or local level;
(b) any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; and
(c) any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (a) or (b).

Member States may provide that this definition shall not include bodies or institutions when acting in a judicial or legislative capacity. If their constitutional provisions at the date of adoption of this Directive make no provision for a review procedure within the meaning of Article 6, Member States may exclude those bodies or institutions from that definition.

3. 'Information held by a public authority' shall mean environmental information in its possession which has been produced or received by that authority.

4. 'Information held for a public authority' shall mean environ-

關之自然人或法人所持有之環保資訊。

5. 「申請者」指要求取得環保資訊之任何自然人或法人。
6. 「公眾」指一個或多個自然人或法人，以及依據內國法律規範與實務情形，由前者所組成之協會、組織或團體。

第三條 應要求取得環保資訊

1. 會員國應確保行政機關依此準則之相關規範，基於任何申請者之請求，並在無須由其說明任何利益關連下，公開其所持有或提供之相關環保資訊。
2. 依第四條之規定與顧及申請者特別提出之期限，應提供申請者所需之環保資訊：
 - (a) 參照本條 1 項所列申請者之需求，行政機關最晚應於收到申請案的一個月內，儘速提供資料；或
 - (b) 若因資料之份量與複雜性，而無法在(a)款所定之一個月期限內完成資料之蒐集時，行政機關應於收到申請案兩個月內提供資料。在此情形下，無論如何應於一個月內儘速告知申請者其須延期提供資料以及延遲之理由。
3. 若申請者提出之要求不明確時，行政機關應儘速至遲

mental information which is physically held by a natural or legal person on behalf of a public authority.

5. 'Applicant' shall mean any natural or legal person requesting environmental information.
6. 'Public' shall mean one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups.

Article 3 Access to environmental information upon request

1. Member States shall ensure that public authorities are required, in accordance with the provisions of this Directive, to make available environmental information held by or for them to any applicant at his request and without his having to state an interest.
2. Subject to Article 4 and having regard to any timescale specified by the applicant, environmental information shall be made available to an applicant:
 - (a) as soon as possible or, at the latest, within one month after the receipt by the public authority referred to in paragraph 1 of the applicant's request; or
 - (b) within two months after the receipt of the request by the public authority if the volume and the complexity of the information is such that the one-month period referred to in (a) cannot be complied with. In such cases, the applicant shall be informed as soon as possible, and in any case before the end of that one-month period, of any such extension and of the reasons for it.
3. If a request is formulated in too general a manner, the public authority shall as soon as possible, and at the latest within the timeframe

於第二項(a)款所規定之期限內，命申請者提出具體之要求，並協助其進行此項事宜，例如提供第五項(c)款所提有關使用公共登錄名冊的資訊。在適當情況下，行政機關得拒絕依第四條 1 項(c)款所提之要求。

4. 當申請者向行政機關請求以特殊方式或形式（包含副本形式）呈現其所欲取得之環保資訊時，行政機關應滿足申請者之要求，但下列情形不在此限：

- (a) 環保資訊已以其他形式或規格一特別是依據第七條之規定一公開，而申請者已相當容易取得此類資訊；或
- (b) 行政機關適於以其他形式或規格公開環保資訊；而此情形下須附具採行前述形式或規格之相關理由。

為達成此項目標，行政機關應以適當使其所持有或提供之環保資訊得直接予以複製，並使之具備得於電子通訊網路或其他電子化方式取得之形式與規格。

行政機關拒絕以申請者所欲獲得之形式或規格提供一部或全部之資訊之理由，應於第二項 a 款所定之期限內通知申請人。

5. 為執行本條之規定，會員國應致力於下列各款事項：
- (a) 公務員負有協助公眾取得資訊之義務；

laid down in paragraph 2(a), ask the applicant to specify the request and shall assist the applicant in doing so, e.g. by providing information on the use of the public registers referred to in paragraph 5(c). The public authorities may, where they deem it appropriate, refuse the request under Article 4 (1)(c).

4. Where an applicant requests a public authority to make environmental information available in a specific form or format (including in the form of copies), the public authority shall make it so available unless:

- (a) it is already publicly available in another form or format, in particular under Article 7, which is easily accessible by applicants; or
- (b) it is reasonable for the public authority to make it available in another form or format, in which case reasons shall be given for making it available in that form or format.

For the purposes of this paragraph, public authorities shall make all reasonable efforts to maintain environmental information held by or for them in forms or formats that are readily reproducible and accessible by computer telecommunications or by other electronic means.

The reasons for a refusal to make information available, in full or in part, in the form or format requested shall be provided to the applicant within the time limit referred to in paragraph 2(a).

5. For the purposes of this Article, Member States shall ensure that:
- (a) officials are required to support the public in seeking access to information;
 - (b) lists of public authorities are publicly accessible; and

- (b) 行政機關名單應公開，以及
(c) 確定實際性措施，以便確保環保資訊取得權得以有效地行使，例如：

- 任命提供諮詢之公務員；
- 建維持構並閱覽所欲獲取之資訊的設施，
- 由行政機關持有或資訊定點提供之註冊記錄或名單，應附加可獲取資訊之處所的清楚說明。

會員國應確保行政機關充分地告知大眾其依本準則所享有之權利，並於適當範圍內，提供大眾資訊、指引與建議等。

第四條 例外情形

1. 會員國得規定於下列情形有權拒絕應申請提供環保資訊：

- (a) 所請求提供之資訊非存於受理申請之行政機關，且該行政機關無法取得該等資訊。在此等情形下，若受理申請之行政機關得知申請者所需資訊為其他行政機關持有或可由其提供時，應儘速將申請案移轉至該行政機關，並通知申請者；或告知申請者其他行政機關可提供其所需之資訊；
- (b) 申請案顯不合理者；
- (c) 依據第三條 3 項之規定，申請內容過於籠統；

- (c) the practical arrangements are defined for ensuring that the right of access to environmental information can be effectively exercised, such as:
- the designation of information officers;
 - the establishment and maintenance of facilities for the examination of the information required,
 - registers or lists of the environmental information held by public authorities or information points, with clear indications of where such information can be found.

Member States shall ensure that public authorities inform the public adequately of the rights they enjoy as a result of this Directive and to an appropriate extent provide information, guidance and advice to this end.

Article 4 Exceptions

1. Member States may provide for a request for environmental information to be refused if:

- (a) the information requested is not held by or for the public authority to which the request is addressed. In such a case, where that public authority is aware that the information is held by or for another public authority, it shall, as soon as possible, transfer the request to that other authority and inform the applicant accordingly or inform the applicant of the public authority to which it believes it is possible to apply for the information requested;
- (b) the request is manifestly unreasonable;
- (c) the request is formulated in too general a manner, taking into account Article 3 (3);

(d) 所請求之資訊內容屬於即將完成或未尚未完成之文件與資料者；

(e) 請求之內容涉及內部職務意見時，應特別考量公開該資訊後所涉及之公共利益。

若申請者提出要求而被拒之原因是資訊內容涉及即將完成或尚未完成之文件與資料時，行政機關須指明準備此類資料之機關名稱，以及資料預估完成所需之時間。

2. 當資訊公開將對下列各點形成負面影響時，會員國得拒絕提供申請者其所要求之環保資訊：

(a) 行政機關依法律規定應保密之諮詢資料；

(b) 國際關係、公共安全或國防事項；

(c) 審理中之司法案件，有關任何人獲得公平審判的可能性，或行政機關進行刑事偵查或公務員懲戒的可能性；

(d) 受內國法律以及共同體法所保護，以便享有合法經濟利益，包含維護統計機密與租稅秘密之公共利益的商業或工業機密；

(e) 智慧財產權；

(f) 受內國法律或共同體法所保護之應保密的個人資料，及（或）未獲同意予以公開之自然人資料；

(d) the request concerns material in the course of completion or unfinished documents or data;

(e) the request concerns internal communications, taking into account the public interest served by disclosure.

Where a request is refused on the basis that it concerns material in the course of completion, the public authority shall state the name of the authority preparing the material and the estimated time needed for completion.

2. Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect:

(a) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;

(b) international relations, public security or national defence;

(c) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(d) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;

(e) intellectual property rights;

(f) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;

(g) 涉及個人之利益或保護，而當事人在未有法定義務要求下或得由法律課予義務下自願地提供他人所申請之資訊。但當事人同意交出該等資訊者，不在此限；

(h) 涉及環境保護之資訊，例如稀有動物之棲居地。

前項第一、二點所稱之拒絕理由，應於個案中充分考量公開資訊之公共利益而予以嚴格解釋。個案中應衡量公開資訊所涉及之公共利益與拒絕公開資訊所據之利益。會員國不得依據第二項(a)、(d)、(f)、(g)、(h)等款而規定其得拒絕提供有關廢棄物排入環境之相關資訊請求。

會員國在前述架構下，以及為確保第(f)款之適用，會員國應確保一九九五年十月二十四日由歐洲議會與理事會通過之95/46/EC準則關於對自然人就涉及個人資料之加工與自由流通之保護的要求。

3. 會員國作出例外規定時，得建立一套供公眾使用的評估標準一覽表，作為相關機關處理申請者請求之依據。
4. 行政機關所持有或已備妥之環保資訊受到公開之請求時，應在可能的範圍內將屬於第一項(d)和(e)款或第二

(g) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;

(h) the protection of the environment to which such information relates, such as the location of rare species.

The grounds for refusal mentioned in paragraphs 1 and 2 shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by disclosure. In every particular case, the public interest served by disclosure shall be weighed against the interest served by the refusal. Member States may not, by virtue of paragraph 2(a), (d), (f), (g) and (h), provide for a request to be refused where the request relates to information on emissions into the environment.

Within this framework, and for the purposes of the application of subparagraph (f), Member States shall ensure that the requirements of 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 are complied with⁹.

3. Where a Member State provides for exceptions, it may draw up a publicly accessible list of criteria on the basis of which the authority concerned may decide how to handle requests.
4. Environmental information held by or for public authorities which has been requested by an applicant shall be made available in part where it is possible to separate out any information falling within

項例外規定下之資訊，自其他被申請公開之資料中分離出來，局部予以公開。

5. 以書面提出申請或申請者為此等要求時，於第三條第二項(a)款所定期限內，或是同條(b)款之可能情形下，行政機關應以書面或電子傳輸方式，通知申請者有關拒絕提供全部或部分資訊之理由。通知書中應載明拒絕之理由，並告知申請者得依第六條規定進行異議程序。

第五條 費用

1. 取得依第三條五項規定設置並提供之公開目錄與表單，以及閱覽以及要求檢視資訊情形，均屬免費。
2. 行政機關可收取提供環保資訊所生之費用，但不得超出合理的範圍。
3. 若建立收費機制，行政機關應公告其收費一覽表以及關於收費與退費情形之相關資訊。

第六條 司法救濟請求權

1. 會員國應確保，有申請者認為有下列情形時，包括其取得資訊之要求受到忽視、受到不當之拒絕（無論是全面性或局部性）、獲得不當之答覆或是未依據第三、

the scope of paragraphs 1(d) and (e) or 2 from the rest of the information requested.

5. A refusal to make available all or part of the information requested shall be notified to the applicant in writing or electronically, if the request was in writing or if the applicant so requests, within the time limits referred to in Article 3 (2)(a) or, as the case may be, (b). The notification shall state the reasons for the refusal and include information on the review procedure provided for in accordance with Article 6.

Article 5 Charges

1. Access to any public registers or lists established and maintained as mentioned in Article 3 (5) and examination in situ of the information requested shall be free of charge.
2. Public authorities may make a charge for supplying any environmental information but such charge shall not exceed a reasonable amount.
3. Where charges are made, public authorities shall publish and make available to applicants a schedule of such charges as well as information on the circumstances in which a charge may be levied or waived.

Article 6 Access to justice

1. Member States shall ensure that any applicant who considers that his request for information has been ignored, wrongfully refused (whether in full or in part), inadequately answered or otherwise not dealt with in accordance with the provisions of Articles 3, 4 or 5,

四、五條之規定處理，得請求進行由該機關或其他機關就相關機關之作為或不作為予以審查之程序，或由依法律規定所設置之獨立與超黨派的行政機制予以審查。此等審查程序均應儘速進行，並應屬免費或僅收取低廉費用之服務。

2. 除本條一項所定之審查程序外，會員國應確保申請者得訴請法院或依法律規定所設置之其他獨立與公正團體針對相關行政機關之行為與失職進行審查，進行審查程序，其所為之決定應具有終局確定性。會員國得進一步提供涉及資訊公開之第三者亦享有請求法律救助之權。
3. 依本條第二項規定所為之終局決定，對持有資訊之行政機關具有拘束力。請求公開資訊依本條規定被拒絕時，該決定應以書面附具理由為之。

第七條 環保資訊的傳播

1. 會員國應採取必要措施，以確保行政機關於處理與其執行任務相關、其所持有或已備妥之環保資訊時，是以得有效及有系統地傳播於大眾的方式，特別是可運用的電腦通訊及（或）電子技術媒介為之。

has access to a procedure in which the acts or omissions of the public authority concerned can be reconsidered by that or another public authority or reviewed administratively by an independent and impartial body established by law. Any such procedure shall be expeditious and either free of charge or inexpensive.

2. In addition to the review procedure referred to in paragraph 1, Member States shall ensure that an applicant has access to a review procedure before a court of law or another independent and impartial body established by law, in which the acts or omissions of the public authority concerned can be reviewed and whose decisions may become final. Member States may furthermore provide that third parties incriminated by the disclosure of information may also have access to legal recourse.
3. Final decisions under paragraph 2 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this Article.

Article 7 Dissemination of environmental information

1. Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available.

The information made available by means of computer telecommunication and/or electronic technology need not include informa-

藉由電腦通訊及（或）電子技術媒介提供資訊時，不須涵蓋於此準則生效前已蒐集之相關資料，但此類資料已以電子化格式存在者，不在此限。

會員國應確保逐步將環保資訊轉化為電子資料庫形式，使大眾得以透過公共電訊網絡，輕易取得前述資訊。

2. 所提供與傳播之資訊應隨時予以更新，並至少應包含以下內容：
 - (a) 涉及環保或與之相關的國際條約本文、公約或協定，以及共同體、會員國、區域或地方之立法；
 - (b) 涉及環境之政策、計劃與綱領；
 - (c) 有關行政機關於呈現電子化格式之資訊時，參照(a)、(b)款所定各點，針對各項內容之執行情形，所提之進度報告；
 - (d) 本條第3項所定有關環境現況之報告；
 - (e) 對於各類活動之環境影響或可能的環境影響監督所得之相關資訊與摘要；
 - (f) 對於環境有重大影響之許可，以及環保協議或針對如何於第三條所定範圍內提出申請或取得資訊之指示；
 - (g) 涉及第二條第一項(a)款所列之環境要素之環境影響研究與風險評估，或依第三條所定範圍內提出申請

tion collected before the entry into force of this Directive unless it is already available in electronic form.

Member States shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunication networks.

2. The information to be made available and disseminated shall be updated as appropriate and shall include at least:
 - (a) texts of international treaties, conventions or agreements, and of Community, national, regional or local legislation, on the environment or relating to it;
 - (b) policies, plans and programmes relating to the environment;
 - (c) progress reports on the implementation of the items referred to in (a) and (b) when prepared or held in electronic form by public authorities;
 - (d) the reports on the state of the environment referred to in paragraph 3;
 - (e) data or summaries of data derived from the monitoring of activities affecting, or likely to affect, the environment;
 - (f) authorisations with a significant impact on the environment and environmental agreements or a reference to the place where such information can be requested or found in the framework of Article 3;
 - (g) environmental impact studies and risk assessments concerning the environmental elements referred to in Article 2(1)(a) or a reference to the place where the information can be requested or found in the framework of Article 3.

或取得資訊之指示。

3. 不違反共同體立法所定之所有特別報告義務下，會員國應採行必要措施，以確保國家、區域或地方定期提出環境情形之報告，但期間最長不得超過四年；此等報告須包含有關環境壓力與品質之相關資訊。
4. 不違反共同體立法所定之所有特別義務下，會員國應採取必要措施，確保一旦因人類活動或自然因素形成對人類健康或環境之威脅時，行政機關所持有及提供的所有資訊，得作為可能受影響之大眾採取適當措施之依據，藉以立即避免或降低因環境威脅所造成之傷害。
5. 第四條一、二項之例外規定於本條所課予之義務有其適用。
6. 會員國得藉由建構提供資訊之網頁連結方式，執行本條之規定。

第八條 環保資訊之品質

1. 會員國應保障所有由其蒐集之資訊的最新、正確與可相較性。
2. 行政機關應依據第二條 1 項 b 款之規定，依申請者所

3. Without prejudice to any specific reporting obligations laid down by Community legislation, Member States shall take the necessary measures to ensure that national, and, where appropriate, regional or local reports on the state of the environment are published at regular intervals not exceeding four years; such reports shall include information on the quality of, and pressures on, the environment.
4. Without prejudice to any specific obligation laid down by Community legislation, Member States shall take the necessary measures to ensure that, in the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information held by or for public authorities which could enable the public likely to be affected to take measures to prevent or mitigate harm arising from the threat is disseminated, immediately and without delay.
5. The exceptions in Article 4 (1) and (2) may apply in relation to the duties imposed by this Article.
6. Member States may satisfy the requirements of this Article by creating links to Internet sites where the information can be found.

Article 8 Quality of environmental information

1. Member States shall, so far as is within their power, ensure that any information that is compiled by them or on their behalf is up to date, accurate and comparable.
2. Upon request, public authorities shall reply to requests for information pursuant to Article 2 (1) b, reporting to the applicant on the place where information, if available, can be found on the measurement

提要求作出回應，在可行之情形下，告知申請者有關取得資訊衡量程序之處，包含分析方法、抽樣以及用來收集資料之樣本前置作業，或其參照使用的標準化程序。

第九條 檢視程序

1. 會員國應於二〇〇九年二月十四日前，針對此項準則之適用經驗提出報告。

會員國應在二〇〇九年八月十四日前將報告提交執委會。

執委會應於二〇〇四年二月十四日前，交付各會員國一份清楚說明會員國報告之方式與內容的指導文件。

2. 本於執行經驗並考量電腦通訊和（或）電子技術之發展，執委會應向歐洲議會及理事會提出一份連同修正建議在內的評估報告。

第十條 執行

會員國應於二〇〇五年二月十四日前，因應本準則而制定發布必要之法令規章。會員國並應即時知會執委會其相關內容。

會員國發布此等法令規章時，應於本文中指明與本準則之關連性，或於官方公告時明示其關連性。建立關

procedures, including methods of analysis, sampling, and pre-treatment of samples, used in compiling the information, or referring to a standardised procedure used.

Article 9 Review procedure

1. Not later than 14 February 2009, Member States shall report on the experience gained in the application of this Directive.

They shall communicate the report to the Commission not later than 14 August 2009.

No later than 14 February 2004, the Commission shall forward to the Member States a guidance document setting out clearly the manner in which it wishes the Member States to report.

2. In the light of experience and taking into account developments in computer telecommunication and/or electronic technology, the Commission shall make a report to the European Parliament and to the Council together with any proposal for revision, which it may consider appropriate.

Article 10 Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2005. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

連性之相關細節，由各會員國定之。

第十一條 廢除

90/313/EEC 準則自二〇〇五年二月十四日起廢止。

經廢止準則之關連性規定，應視為乃本準則之關連規定，並應以附件方式列出對照表。

第十二條 生效

本準則於公布於「歐洲聯盟官方公報」日起生效。

第十三條 適用對象

本準則適用於各會員國。

二〇〇三年一月二十八日於布魯塞爾。

此致歐洲議會

主席

P. Cox

此致理事會

主席

G. Papandreou

Article 11 Repeal

Directive 90/313/EEC is hereby repealed with effect from 14 February 2005.

References to the repealed Directive shall be construed as referring to this Directive and shall be read in accordance with the correlation table in the Annex.

Article 12 Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 13 Addressees

This Directive is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the European Parliament

The President

P. COX

For the Council

The President

G. PAPANDREOU

14.2.2003 L 41/31 Official Journal of the European Union EN

NOTE

- ① OJ C 337 E, 28.11.2000, p. 156 and OJ C 240 E, 28.8.2001, p. 289.
- ② OJ C 116, 20.4.2001, p. 43.
- ③ OJ C 148, 18.5.2001, p. 9.
- ④ 二〇〇一年三月十四日歐洲議會之意見（OJ C 343, 5.12.2001, p. 165）。二〇〇二年一月二十八日理事會之共同立場（OJ C 113 E, 14.5.2002, p. 1），以及二〇〇二年五月三十日歐洲議會之決定（尚未公告於官方公報中）。二〇〇二年十二月十六日理事會之決定以及二〇〇二年十二月十八日歐洲議會之決定。
- ⑤ OJ L 158, 23.6.1990, p. 56.

註釋

- ① OJ C 337 E, 28.11.2000, p. 156 and OJ C 240 E, 28.8.2001, p. 289.
- ② OJ C 116, 20.4.2001, p. 43.
- ③ OJ C 148, 18.5.2001, p. 9.
- ④ Opinion of the European Parliament of 14 March 2001 (OJ C 343, 5.12.2001, p. 165), Council Common Position of 28 January 2002 (OJ C 113 E, 14.5.2002, p. 1) and Decision of the European Parliament of 30 May 2002 (not yet published in the Official Journal). Decision of the Council of 16 December 2002 and decision the European Parliament of 18 December 2002.
- ⑤ OJ L 158, 23.6.1990, p. 56.
- ① OJ L 281, 23.11.1995, p. 31.

附件

相關條文對照表

90/313/EEC 準則	本準則
Article 1	Article 1(a) Article 1(b)
Article 2(a) Article 2(b) — — — —	Article 2 (1) Article 2 (2) Article 2 (3) Article 2 (4) Article 2 (5) Article 2 (6)
Article 3 (1) Article 3 (2) Article 3 (3) Article 3 (4) — — —	Article 3 (1)和 Article 3 (5) Article 4 (2)和 Article 4 (4) Article 4 (1)(b), (c), (d), (e) Article 3 (2)和 Article 4 (5) Article 4 (1)(a) Article 3 (3) Article 3 (4)
Article 4 —	Article 6 (1)和 Article 6 (2) Article 6 (3)
Article 5 — —	Article 5 (1) Article 5 (2) Article 5 (3)
Article 6	Article 2 (2)(c), Article 3 (1)
Article 7 — — — —	Article 7 (1), (2), (3) Article 7 (4) Article 7 (5) Article 7 (6) Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 13
—	Article 11
—	Article 12

（許琇媛譯，蔡宗珍校正）

ANNEX

CORRELATION TABLE

Directive 90/313/EEC	This Directive
Article 1	Article 1(a) Article 1(b)
Article 2(a) Article 2(b) — — — —	Article 2 (1) Article 2 (2) Article 2 (3) Article 2 (4) Article 2 (5) Article 2 (6)
Article 3 (1) Article 3 (2) Article 3 (3) Article 3 (4) — — —	Article 3 (1) and Article 3 (5) Article 4 (2) and Article 4 (4) Article 4 (1)(b), (c), (d) and (e) Article 3 (2) and Article 4 (5) Article 4 (1)(a) Article 3 (3) Article 3 (4)
Article 4 —	Article 6 (1) and Article 6 (2) Article 6 (3)
Article 5 — —	Article 5 (1) Article 5 (2) Article 5 (3)
Article 6	Article 2 (2)(c), Article 3 (1)
Article 7 — — — —	Article 7 (1), (2), and (3) Article 7 (4) Article 7 (5) Article 7 (6) Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 13
—	Article 11
—	Article 12

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