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Item 5 of the provisional agenda

Implementation of the Convention

Fifth report on the implementation of the Convention (2008–2009)

Report by the Working Group on Implementation

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Introduction

1. In accordance with the Convention on the Transboundary Effects of Industrial Accidents, Parties have an obligation to report on the Convention's implementation and the Conference of the Parties shall review the state of implementation (art. 18, para. 2 (a) and art. 23). To assist in the review process, the Conference of the Parties established the Working Group on Implementation and adopted its terms of reference (ECE/CP.TEIA/2, annex III, decision 2000/2, para. 4 and appendix).

2. At its fifth meeting the Conference of the Parties adopted the fourth report on implementation (ECE/CP.TEIA/2008/3). It also elected the following persons to serve as members for the Working Group on Implementation for the term lasting until its sixth meeting: Ms. Anahit Aleksandryan (Armenia), Mr. Vadim Lozhechko (Belarus), Mr. Hrvoje Buljan (Croatia), Mr. Pavel Forint (Czech Republic), Mr. Massimo Cozzone (Italy), Mr. Gunnar Hem (Norway), Ms. Svetlana Stirbu (Republic of Moldova), Mr. Francisc Senzaconi (Romania), Mr. Tomas Trcka (Slovakia) and Ms. Sandra Ashcroft (United Kingdom of Great Britain and Northern Ireland). The Working Group on Implementation elected Mr. Gunnar Hem as its Chair for the period 2009–2010.

3. Also at its fifth meeting, the Conference of the Parties requested the Working Group on Implementation to evaluate the reporting format. Following this evaluation a modified reporting format was elaborated together with guidelines for reporting.

4. The Bureau approved the modified format for use in the fifth reporting round.

5. The Working Group held four meetings in the biennium 2008–2009. Three meetings were organized jointly with the Bureau of the Conference of the Parties and were aimed at discussing most of all activities under the Assistance Programme (The Hague, the Netherlands, 26–27 April 2009; Geneva, Switzerland, 13–14 July 2009; Bratislava, Slovakia, 27–28 January 2010). A separate meeting of the Working Group was held to discuss the evaluation of the national implementation reports (Bootle, United Kingdom, 12–13 April 2010).

I. Reporting

6. The secretariat initiated the fifth reporting round on the implementation of the Convention by sending a letter on 9 October 2009 (in English) or on 12 October 2009 (in French and Russian) to all Parties and other United Nations Economic Commission for Europe (UNECE) member countries. The letter was accompanied by the new reporting format in English, French and Russian and reporting guidelines.

7. Parties and those UNECE member countries that adopted the commitment declaration at the High-level Commitment Meeting, held in Geneva on 14 and 15 December 2005, were required — and other UNECE member countries were invited — to submit up-to-date information on their implementation of the Convention by submitting the report to the secretariat before 31 January 2010.

8. At the time of the Working Group on Implementation's thirteenth meeting, 39 UNECE member countries and the EU had ratified, accepted or acceded to the Convention.

9. Three Parties — Montenegro, Serbia and the former Yugoslav Republic of Macedonia — which had only ratified the Convention in 2009 or 2010, were not obligated to report on implementation for the period when they had not yet been Parties. They were, however, required to report in accordance with the commitment declaration they made at the High-level Commitment Meeting.

10. The Working Group based its fifth report on the implementation of the Convention on the national reports obtained from the following 37 Parties: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Kazakhstan, Latvia, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia and United Kingdom of Great Britain and Northern Ireland.
11. The European Union (EU) submitted to the secretariat updated information about the competent authority for the Convention.
12. The Russian Federation did not deliver its national implementation report by the time of finalization of this document. The secretariat, however, was notified by the competent authority that the report was under preparation and should be submitted shortly. The Working Group invites the Conference of the Parties to stress the issue of timely reporting with the competent authority of the Russian Federation.
13. The reports received from Denmark, Finland and Luxembourg contained only very limited information with many questions left unanswered. The Working Group invites the Conference of the Parties to discourage such an approach to reporting.
14. The Working Group also considered the report received from Ukraine, which had reported in accordance with its commitment expressed at the High-level Commitment Meeting.
15. Georgia and Tajikistan had also made reporting commitments at the High-level Meeting, but their reports had not been received in time for the Working Group to discuss and consider them in detail at the Group's Bootle meeting.
16. The commitment to report on the Convention was not sustained in the fifth reporting round by Bosnia and Herzegovina, Kyrgyzstan, Montenegro and Uzbekistan. The Working Group expresses concern about this situation. While it takes note of changes in the authorities leading the implementation of the Convention, especially in the Central Asian countries, and the difficulties that that might have caused in preparing the reports in the fifth reporting round, it also observes that such changes could not excuse the failure to submit the report. The Working Group therefore invites the Conference of the Parties to remind countries about their commitment to reporting.
17. With regard to the quality of national implementation reports, the Working Group notes that in general that has improved. Obviously the new reporting format, with clearer questions and elaborated guidelines on reporting had contributed to that result.
18. At the same time, there is still room for improvement. In particular, the Working Group notes from the responses that there was too wide an interpretation on some questions (e.g., questions 1 and 9). To some extent that may have been the result of some countries not following the guidelines; at the same time, the Working Group concludes that the text in the guidelines could provide a clearer description of what information is being sought by the questions.
19. The Working Group also suggests that it may be helpful to provide references to indicators and criteria in the reporting guidelines, should they be adopted at the sixth meeting of the Conference of the Parties and recommended for wide application.
20. The indicators and criteria are benchmarks for implementation of the Convention and will allow reporting Parties and other UNECE member countries to perform a self-assessment on the progress they have achieved in implementing the Convention. Also, through the use of indicators and criteria, countries will be able to identify possible gaps in implementation.

II. Overall assessment of the Convention's implementation

21. With regard to an overall assessment, the Working Group concludes that, in general, the level of implementation of the Convention measured by the existence of relevant policies is satisfactory. Also, the difference between Western and Eastern countries of the region is less visible than in the past.

22. The overall understanding and awareness of the Convention's requirements has thus increased in the countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia. This the Working Group attributes, at least in part, to the Assistance Programme, which had been proving to be very effective.

23. At the same time, the enforcement regime for the policies introduced still seems to pose quite a challenge, and therefore the Working Group recommends that more focus be given to it in the years to come.

24. The Working Group recommends to countries-beneficiaries of the Assistance Programme that they should continue working on strengthening the implementation of the Convention under the Programme and by applying its mechanisms focus in particular on enforcement issues.

25. The Working Group further recommends that the countries with advanced implementation continue working on the enforcement regime in order to sustain a high level of industrial safety by developing new, innovative solutions. It encourages Parties to hold seminars, workshops and joint sessions through which they could continuously exchange good practices and experiences.

26. With regard to the mechanism for identification of hazardous activities, it is evident that, due to changing business conditions, the number of activities will also change. To this end, Parties will need to put in place an operational system for identification of hazardous activities, including a mechanism for review or revision.

27. The Working Group sees a need to improve notification of hazardous activities.

28. Emergency preparedness is assessed to be at an adequate level, especially in the national context. However, further work should be pursued to improve cross-border emergency preparedness. To this end, the Working Group calls on Parties to continue performing tests and exercises following the arrangements made by Points of Contact at their fourth consultation. The Working Group also supports a recommendation of the 2009 Slubice workshop that a sound methodology for effective joint management to transboundary emergencies involving international waterways be developed.

29. The Working Group appreciates the efforts of many Parties in establishing opportunities for the public to participate in the processes of establishing and implementing preventive and preparedness measures. At the same time, noting that the public has not made much use of those opportunities, the Working Group encourages Parties to work together on the identification of ways for involving the public.

30. The siting and land use planning issue remains a difficult area under the Convention, although the Working Group notes visible progress, especially in a few countries. The Working Group welcomes the joint seminar on land use planning around hazardous industrial sites to be held back to back with the sixth meeting of the Conference of the Parties and to be organized jointly with UNECE Committee on Housing and Land Management. The Working Group also welcomes other activities that can contribute to creating better understanding in this area of work.

31. Overall, in order to further facilitate the strengthening of the implementation of the Convention in the years to come, the Working Group recommends that activities be

organized on subjects referring to: (i) ways for further improving the effectiveness of prevention policy; (ii) good practices for enhancing public participation; (iii) safety and land use planning; and (iv) improvements in prevention and preparedness in handling accidental water pollution.

III. Detailed analysis of national implementation reports

A. Policy for implementation of the Convention (questions 1–2)

32. In the new reporting format, countries were asked to provide a general description of their policies for prevention, preparedness and response to industrial accidents rather than to list the legal acts through which the Convention was implemented. In the description, countries were to specify in general terms how their policies were reflected in national legislation and administered by the public authorities at different levels.

33. Also, countries were requested to make a self-evaluation of their policies and possible changes recently implemented or planned, rather than to provide information on obstacles to or problems in ratification.

34. Most of the countries provided a good description of their policies, with a sufficient level of detail on how their prevention, preparedness and response policies were administered by the public authorities and what legal acts were available in that regard. Descriptions which could be used as a model could be found, among others, in reports from Switzerland and United Kingdom.

35. A number of reports from Parties members of the EU, which had the same foundation for the implementation of the Convention and the Seveso II Directive,¹ made only general reference to legislation and control arrangements in accordance with the Directive. Such reporting was not very informative, as it was a fact that legislation and control arrangements differed significantly also between EU member States. There were also examples (Azerbaijan, Kazakhstan) where the reporting went beyond the requested information.

36. The Working Group noted that the national administrative set-ups and the control mechanisms adopted for enforcement of legislation for the implementation of the Convention varied considerably between countries. That might be a result of differences arising from national traditions and historical contexts.

37. The reports submitted showed less of a difference between UNECE regions regarding the level of formal implementation than previously.² That might have been to a certain extent a result of the introduction of relevant policies by countries with economies in transition, based on the good practice available in the EU in their efforts to align themselves with EU legislation.

38. At the same time, a number of reports from countries with economies in transition lacked a description of the interrelation between legislation and control mechanisms, leading the Working Group to conclude that the practical implementation of policies still represented a challenge for them. That conclusion was underpinned by a number of replies to the self-evaluation question indicating that the enforcement of policies and legislation had been difficult and that improvement potential existed, in particular in areas like:

¹ European Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances.

² A number of countries from Central Asia or South Eastern Europe did not report.

- (a) Division of responsibilities and cooperation between public authorities at all levels for enforcement of policies;
- (b) Introduction of integrated approaches to risk management;
- (c) Qualifications of staff of public authorities;
- (d) Use of software for risk evaluations; and
- (e) Emergency planning and testing.

39. An improvement potential in the introduction of more efficient policies was also reported by some countries with an advanced level of implementation. The countries referred to introducing measures aimed at making existing systems/mechanisms more cost-efficient (United Kingdom), adapting systems to changing conditions (Switzerland), or introducing new systems that would include a variety of societal risks vis-à-vis major hazard accidents.

40. It should be also noted that many countries reported that they considered their policies as successful even though they lacked clear indicators of success by which to measure it. Many respondents, however, indicated that a relatively low accident frequency was an indicator of the effectiveness of their policies and follow-up.

41. In general, the Working Group sees future challenges lying in further improving the enforcement mechanisms for the existing policies. The Working Group recommends that the countries with economies in transition and beneficiaries of the Assistance Programme address these challenges through possible projects under the Programme.

42. For countries with an advanced level of implementation now working on further improvements in their policies, the Working Group calls on those Parties to organize seminars, workshops, joint exercises, etc., during which new approaches could be exchanged and discussed.

43. The Working Group acknowledges that assessing the effectiveness of adopted policies is a difficult task. It agrees that a useful mechanism for assessment could be some success indicators. At the same time, the Working Group appreciates the sets of indicators and criteria elaborated within the Strategic Approach in 2009–2010, which would be useful in assessing the completeness of the policies. These sets of indicators and criteria might therefore be referred to in the reporting guidelines that should be reviewed for the next reporting round.

B. Identification of hazardous activities with the potential to cause transboundary effects (questions 3–7)

44. The new reporting format requested countries to describe their mechanism for the identification of hazardous activities instead of providing a list with those activities and their location. Countries had also been asked to provide information in a more detailed way on the notification carried out to neighbouring countries on hazardous activities and to make a self-evaluation of their mechanisms.

45. Most of the countries provided information about the existence of relevant mechanisms for the identification of hazardous activities capable of causing transboundary effects and provided a good description, although the level of detail varied. Most of the mechanisms described referred to different licensing or permit systems combined with the application of Annex I and location criteria, while some referred to worst-case scenario analysis.

46. The countries then reported on a number of hazardous activities identified according to the mechanisms they had adopted. Of the reporting countries, 11 stated that there were no activities in their countries capable of causing transboundary effects and they provided, with some exceptions, various explanations as to how that result had been obtained. The Working Group suggested, however, that in future reports a more detailed explanation was needed regarding the determination that there had been no hazardous activities as defined by the Convention on their territory, in order to be reassured that those countries had a suitable identification mechanism in place.

47. Albania and the former Yugoslav Republic of Macedonia reported that the identification process was ongoing. In the case of Kazakhstan, the number of hazardous activities reported was very high, and seemed to relate to the overall number of hazardous establishments in the country, rather than to those falling under the scope of the Convention.

48. With regard to the changes in the number of hazardous activities between reporting rounds, the majority of countries reported such changes mostly due to the opening or closure of operations involving hazardous activities. There were, however, a few cases where the difference was a result of a better understanding of the application of identification criteria under the Convention. That was true in particular for some countries with economies in transition which had been beneficiaries of training sessions in that regard under the Assistance Programme. The change in the number of hazardous activities proved that identification was an ongoing process and therefore Parties should make sure that their identification mechanisms included review/revision tools.

49. With regard to the notification of neighbouring countries concerning hazardous activities, one third of the countries that had identified relevant activities reported that their neighbours had been notified, whereas another third stated that no notification had been made. In the remaining cases, either the notification was only partly done or, as in the case of Belarus, the answer actually referred to notification of accidents. Germany, on the other hand, provided a very detailed list of notifications, also noting that in addition to the 120 activities identified as those capable of causing transboundary effects in accordance with the Convention, it had notified its neighbours of other industrial activities located in the border areas. Altogether, Germany had notified neighbouring countries about 171 industrial activities.

50. The Working Group evaluated the notification on hazardous activities as unsatisfactory and suggests that relevant efforts be made and, if necessary, supported through exchange of good practice or projects under the Assistance Programme, to improve the situation both in terms of number of countries complying with the notification provisions and in terms of the effectiveness of the notification.

51. An interesting difference from the previous report was the increasing number of Parties that stated bilateral activities were ongoing for identification of hazardous activities. It seemed, however, that countries interpreted differently the question on bilateral activities. While some reported on specific activities performed during the reporting period, others interpreted the question as concerning different kinds of agreements on cooperation.

52. In the self-evaluation the countries showed a general satisfaction with the effectiveness of the identification mechanisms they had adopted. Some countries, like Serbia, indicated that there was potential for improving their mechanism through further training of public authority staff, based on the training already received under the Assistance Programme. Other countries, like the Republic of Moldova or the former

Yugoslav Republic of Macedonia, highlighted the need for further support in terms of receiving technical assistance and training.³

53. Generally, the Working Group is satisfied with the information that the Parties provided on their procedures to identify hazardous activities capable of causing transboundary effects. At the same time, the Working Group sees a need for improving the notification of hazardous activities by Parties, where necessary through providing adequate support. Also the Parties should make sure that their mechanisms allow effective review of the number of hazardous activities over time.

Identification of hazardous activities (HA) with the potential to cause transboundary effects (questions 4–6), showing changes in number of HA identified vs. previous report

<i>Parties</i>	<i>No. of HA (Q4 & Q5)</i>		<i>Notification (Q6)</i>	<i>Comments</i>
	<i>Current report</i>	<i>Previous report</i>		
Albania	n/a	n/a	n/a	HA under investigation
Armenia	21	37	no	
Austria	39	31	yes	
Azerbaijan	11	12	no answer	
Belarus	8	8	no answer	
Belgium	4	28	yes	Number of HA after re-evaluation
Bulgaria	3	1	no	HA are to be notified before the sixth meeting of the Conference of the Parties
Croatia	–	–	n/a	
Cyprus	–	–	n/a	
Czech Republic	62	58	partly	
Denmark	–	–	n/a	
Estonia	–	–	n/a	
Finland	4	4	partly	
France	52	55	no answer	
Germany	120	59	yes	Current report includes HA with potential transboundary effects on the Netherlands
Greece	–	–	n/a	
Hungary	23	24	partly	Only airway HA (9) notified
Italy	–	–	n/a	
Kazakhstan	1 504	10	no	Number of HA unclear
Latvia	–	–	n/a	
Lithuania	2	1	yes	
Luxembourg	–	–	n/a	
Rep. of Moldova	8	4	no	Preliminary number; HA under investigation
Monaco	–	–	n/a	

³ National training sessions under the Assistance Programme were organized on 9 and 10 March 2010 for Republic of Moldova and on 23 and 24 March 2010 for the former Yugoslav Republic of Macedonia.

<i>Parties</i>	<i>No. of HA (Q4 & Q5)</i>		<i>Notification (Q6)</i>	<i>Comments</i>
	<i>Current report</i>	<i>Previous report</i>		
Montenegro	–	–	–	No report
Netherlands	51	10	yes	Number of HA after re-evaluation
Norway	–	–	n/a	
Poland	17	30	yes	Number of HA after re-evaluation
Portugal	–	–	n/a	
Romania	5	5	yes	
Russian Federation	–	–	–	No report
Serbia	9	9	no	
Slovakia	13	12	yes	
Slovenia	16	16	partly	
Spain	3	no answer	no	
Sweden	1	1	yes	
Switzerland	30	31	yes	
The former Yugoslav Rep. of Macedonia	n/a	n/a	n/a	HA not yet identified
Ukraine	n/a	n/a	no	HA not yet identified
United Kingdom	3	3	yes	

C. Prevention of industrial accidents (questions 8–9)

54. Countries were requested to provide information on how the national preventive policies described in question 1 were applied and followed up in practice by operators and public authorities. It also called for countries to analyse to what extent those preventive measures delivered the intended results and, if not, to indicate if any steps to address weaknesses in the system were planned or had been undertaken.

55. The Working Group was able to identify a few reports providing a thorough description of preventive measures undertaken (Estonia, Slovenia and Norway). On the other hand, in a number of cases only general information on such measures was provided, without any specification as to what those measures were, and with no mention of any attempt to assess the efficiency and effectiveness of their implementation. Some reports listed legislation rather than measures (Czech Republic) and in a number of cases the answer to question 1 was simply repeated.

56. Another tendency was that countries with advanced preventive systems referred to the Seveso II Directive as evidence that the country fulfilled its obligations under the Convention (Portugal, the Netherlands and the Slovak Republic). Although that could indeed be seen as sufficient, a detailed description of their system would provide less experienced countries with information to improve their own systems by identifying good practice.

57. Detailed descriptions that were given included the verification of safety documentation, facility inspections, organization of workshops or training sessions and the issuing of guidelines for operators on topics such as safety management systems and risk management issues. Germany described their Commission on Process Safety, in which

different stakeholder groups from the private and public sector formulate advice to the Federal Government. Also, Latvia and Austria reported on standing working groups or commissions mandated to consider issues related to industrial safety and to propose new measures. Another example of good practice was the Civil Protection Training Course that operators in Lithuania were obliged to take.

58. While there was much good work being done in prevention of industrial accidents by the Parties, it was apparent from some of the responses that there was a continuing need for assistance to some countries that were still in the early stages of establishing an effective major hazard prevention system. In particular, Serbia mentioned the training under the Assistance Programme with the aim to improve the capacity of public authorities in the evaluation of safety reports.⁴

59. Many countries were satisfied with the results achieved through the application of preventive measures. Again, as in the case of evaluation of polices, a number of countries pointed out that there were no indicators available against which they could assess the level of effectiveness of the measures in place.

60. **The Working Group encourages those countries with advanced preventative systems to provide clear descriptions and evaluations of their adopted measures, as this may prove helpful for less advanced countries looking for information on good practice. The Working Group also invites those countries with less advanced systems of prevention to take active steps to strengthen their systems, and to engage with the Bureau and Working Group in preparing relevant capacity-building activities, as well as advisory sessions under the Assistance Programme.**

D. Emergency preparedness (questions 10-15)

61. In the fifth round, countries were requested to answer a few concrete questions regarding on- and off-site emergency planning and to assess their emergency preparedness, rather than simply to describe the measures adopted.

62. Most of the Parties reported they had established on- and off-site emergency plans. Some Parties, like Azerbaijan and Serbia, reported that emergency plans were partly available. The former Yugoslav Republic of Macedonia said that it had started the procedure in 2009 for ensuring emergency plans.

63. All countries, except for Albania and Serbia, stated that the preparation of emergency plans was coordinated between the operators of the hazardous activities and the authorities.

64. Almost all reporting countries, with the exception of Albania and the former Yugoslav Republic of Macedonia, mentioned regular tests, reviews and updates of the plans. The reported procedures for updates mainly referred to reporting periods of either three years, or after significant changes in amounts of hazardous substances at the facilities, or after an accident.

65. A number of countries underlined the importance of testing the emergency plans, among them the Netherlands, where the authorities had been implementing a working plan to ensure that plans were operational and not just “paper plans”.

⁴ A training session on evaluation of safety reports was organized under the Assistance Programme for Croatia, Serbia and the former Yugoslav Republic of Macedonia on 8 and 9 February 2010 in Belgrade. That training led to an elaboration of a checklist system for evaluation of safety reports. The checklist system is available at <http://www.unece.org/env/teia/guidelines.html>.

66. More than half of the Parties stated that they did not test, review and update their plans in coordination with neighbouring countries, despite having agreed on arrangements on exchange of information and on alerting neighbouring countries in case of an accident (Armenia, Bulgaria, Lithuania). Other countries, in particular those not having any hazardous activities capable of causing transboundary effects, reported that joint testing was not applicable (Greece, Italy, Norway) or that there were no possible effects to neighbouring countries (Estonia and Latvia). France, on the other hand, mentioned that it had organized joint exercises with its neighbours, but not regularly, due to the complexity of organizing such exercises.

67. Around half of the Parties reported that their emergency preparedness measures were successful. A few countries, for example Romania, said that in general their emergency measures met the demands of the Convention, but at the same time indicated that there were some weaknesses detected that needed to be further worked on. Also, Serbia said it had been working on improving its emergency preparedness, in particular in the areas of cooperation between competent authorities within the country and the relevant legislation. For Romania and Serbia, but also for Bulgaria, further improvements had been initiated as a follow-up to the Assistance Programme project on joint management of transboundary emergencies from spills of hazardous substances into the Danube River, carried out in 2009. Switzerland stated that their emergency measures were successful, but that they would like to improve the cost/benefit ratio of exercises.

68. Poland, among others, reported on its participation in the workshop on joint management of transboundary emergencies involving international waterways, held in Slubice, Poland, from 8 to 10 September 2009. The workshop had discussed the important elements for effective transboundary cooperation in emergency situations, highlighting the crucial need for joint training sessions and exercises leading to trust and awareness-building in addition to a solid basis for cooperation including legislation and bilateral agreements. The Working Group supported the workshop's concluding recommendation that a sound methodology for effective transboundary cooperation should be elaborated.

69. **The Working Group finds that emergency preparedness is in general at an adequate level, in particular in the national context. It encourages Parties to take steps to retain and further enhance preparedness, especially in the transboundary context, and therefore to continue the different activities like the joint exercises but also workshops. The Working Group also takes note of the outcome of the fourth consultation for Points of Contact (Zagreb, 25–26 March 2010) and appreciates the arrangements made by Points of Contact for conducting communication tests under the UNECE Industrial Accident Notification System, but also analytical and full-scale exercises. The Working Group also takes note of the recommendation for introducing standardization for notification of chemical emergencies.**

E. Scientific and technological cooperation and exchange of information (question 16)

70. The majority of reporting Parties reported that they had participated in bilateral/multilateral projects or programmes, or had exchanged a wide spectrum of information. A number of countries cited meetings under the Seveso II Directive and the International River Commissions as forums where they exchanged information.

71. Scientific and technological cooperation was not described in detail; rather, it was referred to as a part of bilateral/multilateral meetings, exercises or projects, except for some

countries reporting on the work related to best available techniques (BATs) and the BATs reference documents of the IPPC⁵ Bureau (BREFs).

72. In addition, a number of countries participating in different projects reported on scientific and technological cooperation in that context, among them Bulgaria, Romania and Serbia, reporting on the Assistance Programme project on joint management of transboundary emergency from spills of hazardous substances into the Danube River.

73. The Working Group noted that all reporting countries had established bi- or multilateral agreements or arrangements for cooperation in the field of information exchange, mutual assistance, emergency preparedness exercises or inspections.

74. The Working Group notes that cooperation between countries is increasing. The increase is the result, on the one hand, of the Convention's Assistance Programme, and the Working Group further encourages countries to continue in this manner. On the other hand, bilateral activities are common, in particular, in situations where countries with more advanced implementation are supporting less advanced countries. The Working Group also welcomes this approach.

F. Participation of the public (questions 17–22)

75. In the current reporting round countries were requested to report on the opportunities given to the public to participate in processes establishing and implementing preventive and preparedness measures and to provide information on whether the public took advantage of those opportunities.

76. The detail of information provided again varied between countries. Nevertheless, it could be generally concluded that, for the majority of countries, legislation ensured that the public was given the opportunity to participate in establishing or implementing preventive and preparedness measures. In that context, countries usually referred to procedures on: (a) land use planning; (b) permitting new industrial activities; (c) review of safety reports; (d) approval of external emergency plans; and (e) environmental impact assessment. EU Members also referred to activities within the framework of the Seveso II Directive.

77. Countries reported on various communication channels for informing the public about opportunities for participation. The most frequently cited channels included the local media, in particular newspapers, or web pages of regional authorities.

78. Many countries reported that, despite existing opportunities, the public in general did not make extensive use of them. Some public participation was noted in the areas of land use planning and environmental impact assessment, or cases related to compliance with the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). A number of countries said that they would try to improve in the area of public participation.

79. Most countries reported that the public in neighbouring countries that could be affected by industrial accidents were able to participate in the same way as their own public in establishing and implementing preventive and preparedness measures. The basis for that opportunity was the principle of reciprocity, and in a few cases reference was provided to legal instruments, such as environmental protection acts, the constitution, specialized information systems and environmental impact assessment that also enabled that opportunity. A complication relating to such participation could be language barriers.

⁵ Directive 2008/1/EC of the European Parliament and European Council concerning integrated pollution prevention and control (the IPPC Directive).

80. Regarding their level of success in developing public participation, country responses ranged across a wide spectrum, from considering the level to be fully satisfactory, to seeing a necessity for reinforcement of the existing procedures, to a need for guidelines and information systems for including public in the safety culture. However, public interest in land use planning and safety reports was seen to be increasing generally.

81. The Working Group sees a need for exchanging good practices on reaching a higher degree of public participation in the processes of establishing and implementing preventive and preparedness measures and calls on Parties to organize seminars, workshops or other relevant activities in this area.

G. Decision-making on siting (Questions 23-25)

82. Compared to the previous reporting rounds, the questions on decision-making on siting remained unchanged, except that in the fifth round countries were requested to also evaluate their siting policy.

83. Most countries reported having basic legislation and policies for land use planning for hazardous activities. In that regard, Parties referred to laws on land use and spatial planning, licensing/permit procedures and Environmental Impact Assessment procedures. A number of replies regarding decision-making on siting were too vague for any qualified evaluation (Azerbaijan, Albania, Greece, Kazakhstan, Luxembourg, Portugal, Denmark and Finland). However, it might be assumed that some of those countries, as members of the EU, complied with the Seveso II Directive also in relation to land use planning. Nevertheless, a few EU member States gave descriptions of how the Directive's requirements were followed up.

84. Many Parties stated that possible transboundary effects of industrial accidents were part of the considerations they make on siting of industrial facilities. For some countries that had led to formalized cooperation mechanisms between neighbouring States, while other Parties clearly stated that they lacked an elaborate system.

85. For most Parties, the final decisions on siting lay mainly with local/municipal authorities and they had more or less formalized consultation arrangements between local authorities and authorities at the central level, for example regarding risk assessments and advice on acceptance levels. Some countries mentioned cooperation mechanisms between authorities at different levels. Still, only a few countries indicated more advanced acceptance criteria for location of hazardous activities and for balancing risks and other factors. For example, Slovenia had defined a methodology and criteria for the determination of appropriate distances. Some countries made reference to risk assessment (both probabilistic and deterministic) as an important tool in the land use decision-making process.

86. The reporting was relatively limited with regard to the questions on how legislation and systems worked in practice and on whether the expected results had been achieved. Most countries considered their legislation and systems to be adequate. A number of the Western European countries with broad experience in such matters did give indications of practical problems in the follow-up on land use decisions. Those countries particularly pointed to problems in handling different kinds of developments in the vicinity of existing hazardous establishments. Lack of expertise within municipal authorities in risk-related issues and inadequate monitoring of compliance with set land use restrictions around existing installations was also pointed out as an issue. The Netherlands highlighted the conflict between economic and environmental considerations and the problems encountered by lack of space. Serbia mentioned that provisions within existing legislation were not fully harmonized and that implementation was therefore difficult.

87. A number of countries — among them, Austria, Germany, Romania, Slovenia, Spain, Sweden, Switzerland and United Kingdom — gave examples of new initiatives and good practices to facilitate planning and decision-making processes.

88. **The Working Group is aware that, due to their complexity, diversity and economic impact, land use planning and decision-making regarding siting of hazardous activities is a difficult issue under the Convention. The Working Group has the impression that this is an area where a number of countries still encounter problems in meeting the Convention's requirements. Consequently, a number of countries need assistance on this topic, and the development of mechanisms for further competence building and exchange of good practice between UNECE countries is essential. The Working Group therefore welcomes the seminar on land use planning to be held back-to-back with the sixth meeting of the Conference of the Parties. Also, on the positive side, the Working Group takes note of the fact that more countries seem to have in place better legislation in this area. There also seems to be more awareness on the issue than previously and it is positive that countries try and seek solutions to better meet the challenges of decision-making on siting through the establishment of cooperative mechanisms.**

H. Reporting on past industrial accidents (Questions 26-27)

89. There were no accidents with transboundary effects reported for the period 2008–2009. Armenia reported an accident that had occurred within its territory, but without any transboundary effects.
