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ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
THE PROTECTION AND USE OF TRANSBOUNDARY
WATERCOURSES AND INTERNATIONAL LAKES**

**CONFERENCE OF THE PARTIES TO THE
CONVENTION ON THE TRANSBOUNDARY
EFFECTS OF INDUSTRIAL ACCIDENTS**

Joint special session
Geneva, 2-3 July 2001

PROVISIONAL AGENDA FOR THE JOINT SPECIAL SESSION

to be held at the Palais des Nations, Geneva
starting at 10 a.m. on Monday, 2 July 2001

1. Opening of the joint special session.
2. Adoption of the agenda.
3. Procedural matters and election of officers.
4. Background to the joint special session.

5. Establishment of a regime on civil liability for damage caused by hazardous activities:
 - (a) Format;
 - (b) Scope;
 - (c) Mandate for a negotiation process;
 - (d) Procedure and timetable.
6. Other business.
7. Closing of the joint special session.

EXPLANATORY NOTES

The explanatory notes were prepared by the UN/ECE secretariat in consultation with the Chairperson of the Bureau of the Meeting of the Parties to the UN/ECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) and the Chairperson of the Conference of the Parties to the UN/ECE Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) following the outcome of the recent joint meeting of the Bureaux (Geneva, 19-20 February 2001).

For further information on organizational matters, delegations are invited to contact the UN/ECE secretariat. 1/

Item 1: Opening of the joint special session

A representative of the United Nations Economic Commission for Europe will open the joint special session and make a statement on behalf of UN/ECE.

Representatives of the Parties to the Water and the Industrial Accidents Conventions will be invited to address the Meeting.

Item 2: Adoption of the agenda

The Meeting is expected to adopt its agenda as set out in the present document.

Item 3: Procedural matters and election of officers

(a) Rules of procedure

The Meeting is invited to apply, *mutatis mutandis*, the rules of procedure of the Economic Commission for Europe (E/ECE/778/Rev.3) on the understanding that decisions will be made by consensus among the Parties to either or both of the Conventions present at the joint special session.

(b) Credentials

Following chapter III of the rules of procedure, the credentials of the representatives of the Parties to the Conventions shall be submitted to the secretariat as soon as possible, but no later than at the beginning of the meeting.

(c) Officers

The Meeting is expected to elect a chairperson from among the representatives of the Parties to the Conventions present at the joint special session.

The Meeting is also invited to elect one vice-chairperson from among the officers of the Meeting of the Parties to the Water Convention and one vice-chairperson from among the officers of the Conference of the Parties to the Industrial Accidents Convention.

Item 4: Background to the joint special session

The joint special session was prepared by the Bureaux at their joint meeting on 19-20 February 2001, following decisions taken by the Parties to the Water Convention at their second meeting (see annex I) and by the Parties to the Industrial Accidents Convention at their first meeting (see annex II).

The preparations, by the Bureaux, for the joint special session were based on the report on responsibility and liability in relation to accidental water pollution (MP.WAT/2001/1 – CP.TEIA/2001/1), finalized by the Working Group on Legal and Administrative Aspects, established under the Water Convention. This report will be submitted to the Meeting to facilitate the discussions and decisions. The report includes sections on: a preliminary assessment of relevant rules on liability and identification of gaps; possible tools to address civil liability; the preliminary conclusions of the Working Group; and annexes that specify information provided in the above sections.

Following the decisions of the Bureaux, the secretariat will invite experts to brief the Meeting on legal, technical and other issues linked to responsibility and liability for damage caused by hazardous activities within the scope of both Conventions.

The Bureaux agreed to circulate to the focal points under both Conventions a questionnaire on the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (Lugano Convention) in order to solicit the views of member countries of the Council of Europe. A document compiling the responses to this questionnaire (MP.WAT/2001/2 – CP.TEIA/2001/2) will be available to delegations before the meeting.

The Bureaux also welcomed the offer of the delegation of Switzerland to prepare a draft instrument on liability and compensation to illustrate the key elements of such a regime as mentioned in section B of chapter IV of the report on responsibility and liability (MP.WAT/2001/1 – CP.TEIA/2001/1). This draft instrument will be issued as document MP.WAT/2001/3 – CP.TEIA/2001/3.

Item 5: Establishment of a regime on civil liability for damage caused by hazardous activities

The Meeting is expected to agree on the establishment of a regime on civil liability for damage caused by hazardous activities within the scope of both Conventions.

(a) Format

The Meeting is expected to agree on a possible format for an appropriate regime, including a legally binding instrument, on civil liability for damage caused by hazardous activities within the scope of both Conventions in the UN/ECE region.

The above-mentioned report on responsibility and liability (MP.WAT/2001/1 – CP.TEIA/2001/1) contains five options for developing possible regimes, including options for non-binding or legally binding instruments, taking into account developments in other forums,

particularly within the framework of the United Nations Environment Programme and the European Union. In addition, annex IV, paragraph (f), of the report addresses issues linked to the preparation of a protocol.

(b) Scope

The Meeting is expected to agree on a possible scope for an appropriate regime. Annex IV to the report (MP.WAT/2001/1 – CP.TEIA/2001/1) lists some questions that could be dealt with by the Meeting at this joint special session when considering the scope of the regime.

(c) Mandate for a negotiation process

Based on the considerations of items 5 (a) and 5 (b), the Meeting is expected to decide on a mandate to start intergovernmental negotiations in order to draw up an appropriate regime on civil liability.

(d) Procedure and timetable

The Meeting is also expected to agree on the specific procedures and a timetable for the negotiating process to draw up a regime to be adopted at the Ministerial Conference “Environment for Europe” (Kiev, 21-23 May 2003).

Item 6: Other business

At the time of writing, the secretariat had no points to propose under this item.

Item 7: Closing of the joint special session

The Chairperson will close the joint special session.

Note

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Annex I

**EXCERPT FROM THE REPORT OF THE SECOND MEETING OF THE PARTIES
TO THE WATER CONVENTION (ECE/MP.WAT/5)**

“Responsibility and liability

31. The Meeting of the Parties considered document MP.WAT/2000/16 prepared by the secretariat in consultation with Switzerland on a possible approach to drawing up a protocol on responsibility and liability.
32. The Meeting of the Parties entrusted an open-ended group of experts under the auspices of the Working Group on Legal and Administrative Aspects with:
- (a) Assessing the relevant rules on liability, and relevant UN/ECE and other international instruments and proposals;
 - (b) Identifying gaps in rules on liability, which action within the framework of the Convention could help to bridge;
 - (c) Drawing up options for developing possible tools, including options for non-binding or legally-binding instruments, taking into account developments in other forums, particularly within the framework of UNEP;
 - (d) Submitting a draft report to the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents for consideration at its first meeting (Brussels, 22-24 November 2000);
 - (e) Including as appropriate the outcome of the discussion at this meeting in the final version of the report.
33. The Meeting of the Parties also:
- (a) Accepted with appreciation the offer of the Chairman of the Meeting of the Signatories to the Convention on the Transboundary Effects of Industrial Accidents as well as UNEP and WHO/EURO to assist in this activity;
 - (b) Invited delegations, international organizations and NGOs to nominate experts for the open-ended group.

34. Furthermore, the Meeting of the Parties decided that the report of the open-ended expert group, finalized by the Working Group on Legal and Administrative Aspects, should be submitted to the Bureau at its meeting in 2001 for consideration so that a decision could be prepared on possible ways and means of following up the activities proposed by the Working Group on Legal and Administrative Aspects. The Bureau should further proceed on the subject as part of the preparations for the Ministerial Conference "Environment for Europe" (Kiev, 2002) a/, and develop a procedure which ensured the involvement of all the Parties to the Convention in taking decisions."

Note

a/ The Ministerial Conference was recently rescheduled and will now take place on 21-23 May 2003.

Annex II

**EXCERPT FROM THE REPORT OF THE FIRST MEETING OF THE
CONFERENCE OF THE PARTIES TO THE CONVENTION ON THE
TRANSBOUNDARY EFFECTS OF INDUSTRIAL ACCIDENTS (ECE/CP.TEIA/2)**

**DECISION 2000/6
ON RESPONSIBILITY AND LIABILITY**

The Conference of the Parties,

Recalling article 13 of the Convention,

1. Welcomes the initiative by Switzerland on responsibility and liability as contained in document CP.TEIA/2000/14;
2. Takes note of the decisions taken on the subject of responsibility and liability by the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) at their second meeting in The Hague, Netherlands, in March 2000 (ECE/MP.WAT/5);
3. Also takes note of the support in this respect expressed by delegations at the seventh session of the UN/ECE Committee on Environmental Policy (ECE/CEP/74);
4. Recognizes, on the basis of the preliminary report by the Chairperson of the expert group on liability and industrial accidents established by the Parties to the Water Convention (CP.TEIA/2000/14/Add.1) and the background study International Legal Instruments on Civil Liability Applicable to Water-related Incidents: Coverage and Possible Gaps, commissioned by this expert group, the shortcomings of existing international civil liability instruments, in particular due to their lack of specificity in certain cases and to the fact that they have not entered into force;
5. Stresses the need for an appropriate regime, including a legally binding instrument, in the UN/ECE region on civil liability for damage caused by hazardous activities within the scope of both Conventions;
6. Mandates its Bureau to work closely with the Bureau of the Meeting of the Parties to the Water Convention to prepare a joint special session of the governing bodies of both Conventions in 2001 with a view to considering entering into an intergovernmental negotiation process;
7. Requests its Bureau, to that end, to prepare, in conjunction with the Bureau of the Meeting of the Parties to the Water Convention, elements for defining the scope of a regime on civil liability, taking into account the issues raised during its first meeting (see ECE/CP.TEIA/2, para. 37).