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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

RESPONSES TO THE QUESTIONNAIRE ON THE CONVENTION ON CIVIL LIABILITY FOR DAMAGE RESULTING FROM ACTIVITIES DANGEROUS TO THE ENVIRONMENT (LUGANO CONVENTION)

Compiled by the secretariat

Addendum

INFORMATION BY THE GOVERNMENT OF THE NETHERLANDS */

*/ This document contains the information as provided by the country and has not been formally edited.

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I. COMPILATION OF THE RESPONSES TO THE QUESTIONNAIRE

A. Response to question 1

What are the reasons that your country has not signed/ratified, approved, acceded to or not accepted the Convention yet, are there any obstacles for a possible decision to ratify, approve, accede or accept the Convention and, if so, could you identify them?

1. The Netherlands has signed the Lugano Convention and is preparing legislation with a view to ratification. The final decision on ratification is however awaiting the outcome of the discussions within the framework of the European Union on a directive on environmental liability. More specifically, the question is if this outcome will from a technical legal point of view be compatible with such ratification.

B. Response to question 2

Does the fact that the Convention is not limited to transboundary damage but also covers damages caused within the national territory of a Member State, constitute an obstacle for your country to ratify?

2. No, the Netherlands' legislation with regard to environmental liability is to a large extend already in line with the provisions of the Lugano Convention. The present scope of the Convention is therefore for the Netherlands no obstacle for ratification.

C. Response to question 3

Are the damage and scope of dangerous activities covered by the Convention too broad in comparison with your internal legislation?

3. No, on the points mentioned (the damage and the scope of the Lugano Convention) the Netherlands' legislation concurs with the provisions of the Lugano Convention.

D. Response to question 4

Should the definition of the environmental damage in the Convention be more accurate?

4. The Netherlands is of the opinion that the present definition of environmental damage is accurate. The different types of damage are clearly enough spelled out. The fact that the definition leaves room for appreciation for the judge is unavoidable. A more detailed prescriptive definition of environmental damage would run the risk of being to restrictive. Finally, the Netherlands wants to point to the fact that the definition of damage in the Lugano Convention is very much similar to the definition in other more recent liability conventions.

E. Response to question 5

Can you provide information on the damage, if any, resulting from activities dangerous to the environment in your country?

5. In 1996, a fire in a storage facility of dangerous substances in Rotterdam harbour caused toxic clouds of benzene and toluene. Thanks to the direction of the wind, the toxic clouds did not reach the nearest residential quarters. Nevertheless, the incident caused environmental and material damage.