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English only

Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents

Working Group on Development

Third meeting

Geneva, 3–4 September 2013

Item ... of the provisional agenda

[Agenda item title]

Terms of reference of the Working Group on Development in the period between the seventh and eighth meetings of the Conference of the Parties

Note by the Bureau

I. Background

1. The Working Group on the Development of the Convention is a subsidiary body established by the Conference of the Parties at its third meeting (ECE/CP.TEIA/12, decision 2004/4) to:

(a) Keep under review the developments in other regulatory instruments concerning the prevention of, preparedness for and response to industrial accidents, including relevant legislation adopted by the European Union and other Parties, and assess their legal and practical implications for the Convention;

(b) Review, as a priority, annex I to the Convention in the light of the corresponding legal requirements of the Seveso II Directive of the European Union; and

(c) Submit, if appropriate, to the Bureau recommendations and proposals for amending the Convention as part of the preparations for the meetings of the Conference of the Parties.

2. The intention was that the Working Group on Development only be activated when the Conference of the Parties wishes an amendment to the Convention to be drafted.

3. The Conference of the Parties, at its third meeting, entrusted the Bureau to appoint the Chair of the Working Group, decided that the Working Group would be open to representatives from all Parties and recommended that it should regularly use inter alia electronic tools to facilitate active communication among its members and with the secretariat.

4. The Working Group subsequently drafted amendments to annex I during 2005–2006. The revised annex I was adopted at the fourth meeting of the Conference of the Parties in November 2006 and entered into force on 19 March 2008.

5. The seventh meeting of the Conference of the Parties, in 2012, requested the Working Group to draft a revised annex I in the biennium 2013–2014, to bring it into line with the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (ST/SQ/AC.10/30/Rev.4) and to maintain consistency with the corresponding

European Union legislation (Seveso III Directive).¹ The Conference decided that the proposed amendment should be circulated to the Parties not less than 90 days in advance of its next meeting, in line with article 26, paragraph 2, of the Convention.

6. The Conference, wishing to minimize the frequency of amendments to the Convention, also requested the Working Group to evaluate the possible amendment of the Convention to address the following provisions and issues:

- (a) Revised and additional definitions (art. 1);
- (b) Revised scope (art. 2);
- (c) Strengthened public participation (art. 9);
- (d) Revised scope of mutual assistance (art. 12);
- (e) Clarified frequency of meetings (art. 18, para. 1);
- (f) Clarified or strengthened reporting obligations (art. 23);
- (g) Accession by other Member States of the United Nations (art. 29);
- (h) Application of amendments to new Parties (art. 29);
- (i) Provisions on land-use planning;
- (j) Provisions on the review of compliance;
- (k) Governance structures under the Convention.²

7. In addition, the Conference invited the Working Group to consider possible remedies for non-compliance with the reporting requirement. It was anticipated that the Conference of the Parties would discuss and prioritize all these issues at its eighth meeting with a view to adopting an amendment at its ninth meeting.

8. The Bureau, at its twenty-fourth meeting (January 2013), suggested that the Working Group should also consider the possible need for a derogation provision in the Convention.³

9. The Conference requested the Bureau to identify a Chair of the Working Group and to make arrangements for the two meetings foreseen for the tasks entrusted to it (i.e., the third and fourth meetings of the Working Group). In addition, the Conference requested the secretariat to:

- (a) Draft a detailed background paper for the third meeting of the Working Group (which was to be held in September 2013);
- (b) Follow strictly the Committee on Environmental Policy's criteria for financial support to meetings of the Working Group, with only eligible Parties to receive such support;
- (c) Present to the fourth meeting of the Working Group a draft proposed amendment of annex I as an official document, translated into the three official languages of the United Nations Economic Commission for Europe (ECE);

¹ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

² The Chair of the Working Group on Development suggested also that the Rules of Procedure be reviewed within this process.

³ This suggestion was made in the light of Article 4 of European Union's Seveso III Directive 2012/18/EU, with regard to the assessment of potential requests to exclude a particular dangerous substance from the scope of the Directive.

(d) Republish the Convention after the entry into force of any amendment.

10. Thus the Working Group was, in effect, reactivated for the purpose of drafting and evaluating possible amendments. Sections II to VIII below present the terms of reference of the Working Group for this purpose, including the fresh mandate.

11. The Bureau, at its twenty-fourth meeting (January 2013), identified Mr. Cristiano Piacente (Italy) as Chair of the Working Group on Development for the period to the next meeting of the Conference of the Parties.

12. The Bureau decided that two small groups should assist the Working Group, one working on drafting a revised annex I to the Convention, the other on the evaluation of other possible amendments to the Convention. The Bureau requested the secretariat to draft one-page terms of reference for the Working Group and each of the two small groups by the end of February 2013. The Bureau considered that the small groups might be constituted and begin work once it had agreed on the respective terms of reference by email.

13. The Bureau emphasized that any industry involvement in the small group drafting the revised annex I should be carefully controlled, given that the Parties are responsible for setting standards. The European Union would only be in a position to ratify the amendments, in particular as regards annex I, if in line with the Seveso III Directive.

14. The Bureau expressed support for the hiring of a consultant to address particular aspects of the possible amendment of the Convention.

II. Mandate and reporting

15. The Working Group will report to the Conference of the Parties at its eighth meeting. It will submit to the Conference of the Parties through the Bureau: (a) a draft decision amending annex I to the Convention (with the revised annex I attached); and (b) a reasoned report with possible proposals on other amendments to the Convention and to its Rules of Procedure.

III. Objectives

16. The objectives of the Working Group in the period to the next meeting of the Conference of the Parties will be:

(a) The drafting of a revised annex I;

(b) The evaluation of the possible amendment of the Convention – and its Rules of Procedure, where necessary – to address the other provisions and issues identified by the Conference of the Parties and its Bureau.

IV. Planned activities and outputs

17. To achieve its objectives, the Working Group will undertake the following activities:

(a) With regard to the revision of annex I:

(i) The determination, at its third meeting, of the scope and approach to be taken in drafting the revised annex I;

- (ii) The endorsement of the terms of reference of a small drafting group established to assist in undertaking this work and agreement on its composition;⁴
- (iii) The review of the work of the small drafting group and the giving of advice to the small group;
- (iv) The consideration, at its fourth meeting, of a draft proposed amendment;
- (iv) The finalization of the proposed amendment;
- (b) With regard to the evaluation of other possible amendments:
 - (i) The determination, at its third meeting, of the scope and approach to be taken in the evaluation;
 - (ii) The endorsement of the terms of reference of a small evaluation group established to assist in undertaking this work and agreement on its composition;
 - (iii) The possible assignment of tasks to consultants;
 - (iv) The review of the work of the small evaluation group and consultants and the giving of advice to the small group;
 - (v) The finalization of a reasoned report with possible proposals on amendments for consideration by the Conference of the Parties.

18. The Working Group will prepare, in particular, the following outputs:

- (a) A proposed amendment of annex I to the Convention that should be circulated to the Parties not less than 90 days in advance of the next meeting of the Conference of the Parties;
- (b) A report with recommendations or proposals, or both, further to the evaluation of other possible amendments to the Conventions and to its Rules of Procedure.

V. Timetable

19. The current mandate of the Working Group will cover the period between the seventh and eighth meetings of the Conference of the Parties.

VI. Method of work

20. The Working Group is expected to have two face-to-face meetings during its mandate. The Working Group will also work via e-mail and other electronic means. It will cooperate closely with the Bureau and it will direct and oversee the work of the two small groups. The Working Group will be subject to the rules of procedure of the Conference of the Parties (ECE/CP.TEIA/3), mutatis mutandis. Meetings will be held in English, French and Russian; official documents will be made available in the same three languages. Informal documents may be in English only.

⁴ As noted above, the Bureau proposed in January 2013 that the small groups might be constituted and begin work once the Bureau had agreed on the respective terms of reference by e-mail so that initial proposals might be put before the Working Group at its third meeting. The Working Group would therefore be invited to endorse the terms of reference.

VII. Membership and officers

21. The Working Group is open-ended. It will comprise representatives of Parties to the Convention, together with observers including ECE member States that are not party to the Convention. The Chair has been identified by the Bureau, as requested by the Conference of the Parties. The Working Group might decide to elect one or more Vice-Chairs to assist the Chair.

VIII. Secretariat support

22. The ECE Convention secretariat will service the meetings of the Working Group and facilitate its electronic communications. For meetings of the Working Group held in Geneva, the secretariat will provide interpretation. The secretariat will prepare necessary informal documents and process, having as appropriate prepared, the following official documents:

- (a) The provisional agenda and report of each of the two meetings;
- (b) A detailed background paper for the third meeting of the Working Group;
- (c) A draft proposed amendment of annex I for the fourth meeting of the Working Group;
- (d) The proposed amendment of annex I for consideration by the Parties;
- (e) The report with recommendations or proposals, or both, further to the evaluation of other possible amendments for consideration by the eighth meeting of the Conference of the Parties.

23. As decided by the Conference of the Parties, the secretariat will follow strictly the Committee on Environmental Policy's criteria for financial support to meetings of the Working Group, with only eligible Parties to receive such support.⁵

⁵ The criteria are set out in the report of the Committee's most recent session (ECE/CEP/2012/2, annex I). Specifically, with regard to the Working Group meetings, one representative of each of the following Parties is eligible for financial support comprising travel expenses and DSA: Albania, Armenia, Belarus and the Republic of Moldova. One representative of the former Yugoslav Republic of Macedonia is eligible for financial support comprising DSA only.