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

Eighth meeting

Geneva, 3–5 December 2014

Item 7 (c) of the provisional agenda

**Development of the Convention: other possible amendments to the
Convention and guidance from the Conference of the Parties**

Proposed Amendments and Prioritization of Guidance by the Conference of the Parties

Note by the Bureau, prepared in cooperation with the secretariat

Summary

At its seventh meeting (Stockholm, 14–16 November 2012), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents requested the Working Group on the Development of the Convention to evaluate a list of provisions and issues with regard to a possible amendment of the Convention (ECE/CP.TEIA/24, paras. 66–67).

Following a thorough consideration of the question, the Working Group identified several issues as meriting amendment, and other issues that should be addressed and clarified through guidance by the Conference of the Parties. The present document, prepared by the Bureau in cooperation with the secretariat, and based on the Working Group's recommendations, contains a proposed prioritization of provisions and issues for an amendment of the Convention and guidance by the Conference of the Parties.



I. Considerations by the Working Group on the Development of the Convention

1. Wishing to minimize the frequency of amendments of the Convention, at its seventh meeting (Stockholm, 14–16 November 2012), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents requested the Working Group on Development of the Convention (Working Group on Development) to consider, in addition to drafting a revised annex I, the possible amendment of the Convention to address the following provisions and issues (ECE/CP.TEIA/24, para. 66):

- (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. In addition to these provisions, the issue of derogation was added for consideration, upon the request of the Bureau at its meeting in January 2013.

3. At its third and fourth meetings (Geneva, 3–4 September 2013 and 28–29 April 2014, respectively) the Working Group considered whether, for each of the above-listed provisions, an amendment of the Convention would be proposed to the Conference of the Parties. At its fourth meeting, the Working Group identified both the provisions that it considered merited an amendment, as well as other issues and provisions that it judged needed clarification or modification through guidance by the Conference of the Parties. The rationale for the proposals for amending or not amending certain provisions of the Convention, as agreed by the Working Group, are annexed to the report of the fourth meeting (CP.TEIA/WG.1/2014/3, annex II).

4. With regard to revising the scope set out in article 2 and the issue of derogation, the Working Group considered that neither an amendment to the Convention nor a clarification through guidance by the Conference of the Parties was needed.

II. Provisions to be addressed through an amendment to the Convention

5. At its fourth meeting, the Working Group on Development agreed to propose that the Conference of the Parties amend the following articles of the Convention:

- (a) Article 1, to revise the definitions;
- (b) Article 9, to strengthen provisions on public participation;
- (c) Article 18, paragraph 1, to modify the frequency of meetings;

(d) Article 29, to clarify the application of amendments to new Parties.

6. While considering amendments to the respective articles, linkages with other articles and the related annexes also need to be considered. This is in particular the case with regard to strengthened public participation, which may require changes to annexes V and VIII to ensure internal consistency.

7. The Conference of the Parties may wish to request the Working Group on Development to draw up text proposals for the above-mentioned amendments for its further consideration and to invite the secretariat to facilitate this work, among others, by ensuring that appropriate legal advice is financed through extrabudgetary resources.

III. Provisions to be addressed through guidance by the Conference of the Parties

8. In addition, the Working Group on Development agreed to recommend that the following issues and provisions would best be addressed by means of guidance by the Conference of the Parties:

(a) Clarifying the scope of mutual assistance (art. 12);

(b) Reporting obligations with regard to periodicity, public accessibility and other issues (art. 23);

(c) Provisions on land-use planning (art. 7);

(d) Provisions on the review of compliance (art. 23);

(e) Terms of reference of the subsidiary bodies.

9. Guidance by the Conference of the Parties could take various forms. It could be provided through:

(a) Decisions or clarifications included in the text of a meeting report of the Conference of the Parties;

(b) A separate decision, in the form of:

(i) A decision by the Conference of the Parties;

(ii) A guidance document endorsed by the Conference of the Parties.

10. At its fourth meeting the Working Group invited the Bureau to prioritize the issues for which guidance is to be developed and to consider and recommend to the Conference of the Parties which subsidiary bodies or groups might be most appropriate for drafting such guidance.

11. The Conference of the Parties may wish to decide which guidance it would be useful to develop in the lead-up to its ninth meeting in 2016 and whether there are any issues that could be postponed until after that meeting. In making such a decision, the Conference should take into account the current momentum to address the issues, their linkages with the amendments to be negotiated and the resources (human and financial) expected to be available for the secretariat to coordinate and service these processes, as well as for the delegations to participate.

12. To facilitate the Conference of the Parties' deliberations, the Bureau has proposed the type of guidance the Conference could provide on the different issues, the timing for their development and which bodies or groups could be mandated to prepare such guidance (see annex).

13. The Bureau agreed to propose to the Conference that, apart from the issues which the Working Group on Implementation could be mandated to address and the issues it would itself propose to consider, the Working Group on Development should be the main body to be mandated to consider matters of relevance for guidance by the Conference of the Parties.

IV. Accession by Member States of the United Nations from outside the United Nations Economic Commission for Europe region

14. As regards accession by Member States of the United Nations from outside the United Nations Economic Commission for Europe (ECE) region (art. 29), the Working Group on Development noted the need to consider further the experience of other ECE multilateral environmental agreements that have been or are about to be opened to all United Nations Member States, such as the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the Convention on Environmental Impact Assessment in a Transboundary Context. At its fourth meeting, the Working Group agreed to recommend that, due to the strategic nature of the topic, a thorough discussion should take place at the eighth meeting of the Conference of the Parties to determine whether and how to further consider this issue, on the basis of background information to be prepared by the secretariat.

15. As regard the issue of accession by Member States of the United Nations from outside the ECE region, the discussion at the eighth meeting of the Conference of the Parties will provide an indication as to whether and how to further consider this issue.

Annex

Overview of provisions and issues for guidance by the Conference of the Parties: possible type of guidance, proposed time frame and proposed responsible body or group

<i>Provisions or issues</i>	<i>Possible type of guidance by the Conference of the Parties</i>	<i>Proposed time frame</i>	<i>Proposed responsible body or group</i>
Governance structure under the Convention	Decision on the terms of reference of subsidiary bodies	To be taken at the ninth meeting	Bureau to prepare revised terms of reference
Clarifying the scope of mutual assistance (art. 12)	Decision outlining to what extent mutual assistance refers to any industrial accident or to industrial accidents with transboundary effects only	To be taken at the ninth meeting	The Working Group on Development to prepare a draft decision
Reporting obligations with regard to periodicity, public accessibility and other issues (art. 23)	Decision on reporting obligations with regard to issues needing clarification, including periodicity and public availability	To be taken at the ninth meeting	The Working Group on Implementation to prepare draft decision when reviewing the reporting guidelines
Provisions on the review of compliance (art. 23)	Decision on a possible compliance mechanism	To be taken at the ninth meeting	The Working Group on Development in cooperation with the Working Group on Implementation will consider the introduction of a compliance mechanism and prepare a draft decision
Provisions on land-use planning (art. 7)	Guidance document on land-use planning	To be taken at the ninth or tenth meeting	External expertise will be used to draft the guidance document, which will be reviewed by the Working Group on Development