The Convention on the Transboundary Effects of Industrial Accidents

Key obligations, linkages with the Aarhus Convention and implementation mechanism

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UNECE Industrial Accidents Convention
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1. About the UNECE Industrial Accidents Convention
The history and triggers for negotiating the Convention

Seveso, Italy on 10 July 1976

Schweizerhalle, Basel, Switzerland on 1 November 1986
Industrial Accidents Convention

- Adopted in 1992, entered into force in 2000
- Designed to protect people and the environment against industrial accidents
- Helps its Parties to prevent industrial accidents, and to prepare for and respond to accidents
- Focus on transboundary cooperation
- Applies to accidents of technological nature involving chemical substances, incl. those caused by natural disasters (NATECH accidents)
- International cooperation on mutual assistance, R&D, exchange of information & technology
- 41 Parties
Status of Ratification:
41 Parties (including the EU)
2. Key obligations and linkages with the Aarhus Convention
Key obligations

- Identification and notification of hazardous activities
- Development/implementation of policies, strategies, measures for:
  - Prevention
  - Preparedness
  - Response
- Information to and participation of the public
Art. 4 – Identification, consultation and advice

- Party of origin required to identify hazardous activities *(proposed and existing)* to take preventive and preparedness measures
  - In line with the Convention’s Annex I containing the hazardous substances
  - Using the location criteria to define possible transboundary effects

- Location criteria:
  - 15 km from the border (air path) or
  - 48h of average flow velocity (water path)

- Once identified, potentially affected Party should be informed/notified about the hazardous activity

- Possibility to set up an inquiry commission in case of disagreement *(para 2; annex II)* – has never happened in practice
Art. 9 – Information to, and participation of the public

“The public” means one or more natural or legal persons.” (art. 1 (j))

• Parties shall ensure that the public in the areas capable of being effected by an industrial accident arising out of a hazardous activity is given
  • Information (information channels, content of the information in Annex VIII, considering also Annex V)
  • An opportunity to participate in relevant procedures (to express views on prevention, preparedness and response measures – equal opportunities for the public of the affected Party and Party of origin)
  • Access to relevant administrative and judicial proceedings

• Linkages with art. 5 and 6 of the Aarhus Convention

• Amendment to the Industrial Accidents Convention (notably on art. 9 to align with the Aarhus Convention and Seveso III Directive) could not be adopted by the meetings of the Conference of the Parties in 2016 and 2018
Annex VIII – Information to the public

• 1. name of the company, address of the hazardous activity and identification by position held of the person giving the information
• 2. **simple explanation** of the hazardous activity
• 3. dangerous characteristics and amounts of dangerous substances
• 4. general **information resulting from an EIA**, if available
• 5. possible industrial accident **including its potential effects on the population and the environment**
• 6. **how the affected population will be warned and kept informed** in the event of an industrial accident
• 7. the **actions that affected population should take and on the behaviour they should adopt** in the event of an industrial accident
• 8./9. on internal&external emergency preparedness and response measures
• 10. on special requirements and conditions to which the hazardous activity is subject according to the relevant national regulations and/or administrative provisions, including licensing or authorization systems
• 11. **details of where further relevant information can be obtained**
Practical example: Lithuania – notification of a proposed hazardous activity to Latvia

Planned construction and operation of an LNG terminal and related infrastructure facilities in Lithuania (in 2014-2015)

- 2 possible locations identified, with 1 being close to Latvian border
- Lithuania conducted therefore a transboundary environmental impact assessment (EIA)
  - Latvia commented on the EIA documentation
  - Public hearing procedure and meeting in Latvia
  - Bilateral Lithuanian-Latvian expert consultations
  - EIA decision submitted to Latvia

⇒ In consultation process, it had been decided to shift the location to a place where the activity would not have transboundary effects
Preparedness and Response

**Emergency preparedness (art 8., annex V and VII)**

- Emergency planning inside and outside industrial installations
- Emergency preparedness measures, incl. development of transboundary emergency plans
- Off-site emergency plans shall be compatible with those of neighbouring countries to be able to respond to transboundary impacts

**Response (art. 11) and mutual assistance (art. 12, annex X)**

- Ensuring capability of providing effective response and mitigation measures
- Notification of accidents or threat thereof to potentially affected Parties
- Mutual assistance
- Coordination of the response measures
Practical examples – Exercises

• Development of draft joint contingency plan between Republic of Moldova, Romania and Ukraine (2013-2014)

• Self-initiated tests of the UNECE Industrial Accident Notification (IAN) System by Switzerland with France and Germany (2018)

• Other transboundary exercises:
  • Germany and Poland (2009, 2017)
  • Hungary in Danube region (2018)
  • Bulgaria, Romania, Serbia (2009)
  • Poland & Russian Federation (2002)

Trilateral transboundary exercise with provision of mutual assistance (2015) – with participation of the operator, public and Elyx (UN Digital Ambassador)
Other relevant provisions and principles of the Convention

• Parties take account of the **polluter-pays principle** as a general principle of international environmental law *(preamble)*

• Parties shall support international efforts to elaborate rules, criteria and procedures in the field of **responsibility and liability** *(art. 13)*

2003 – adoption of the *Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters* (1 Party, not yet entered into force)
Linkages: 2030 Agenda for Sustainable Development and Industrial Accidents Convention

3 Good Health and Well-being
- Avoids deaths and illnesses from hazardous chemicals by reducing the risk of technological disasters releasing chemical substances

6 Clean Water and Sanitation
- Prevents accidental water pollution from industrial accidents

9 Industry, Innovation and Infrastructure
- Promotes safe management of industrial installations to make them sustainable

11 Sustainable Cities and Communities
- Encourages integrated policies to achieve resilience to disasters, in line with the Sendai Framework for Disaster Risk Reduction 2015-30

12 Responsible Consumption and Production
- Provides a framework to prevent accidental release of chemicals, thus contributing to their environmentally sound management

13 Climate Action
- Strengthens resilience to climate-related hazards and natural disasters by promoting adequate siting, land-use policies and emergency plans

16 Peace, Justice and Strong Institutions
- Ensures participatory decision-making by involving the public in discussions related to prevention of, preparedness for and response to industrial accidents
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<tr>
<th>Linkages: Sendai Framework priorities for action and Industrial Accidents Convention</th>
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<tbody>
<tr>
<td>1. <strong>Understanding disaster risk</strong></td>
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<td>Encouraging Parties to identify potentially hazardous activities to be able to target preventive measures, preparedness and response.</td>
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<td>2. <strong>Strengthening disaster risk governance to manage disaster risk</strong></td>
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<td>Providing a governance mechanism for regional cooperation to address transboundary disaster risk reduction.</td>
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<td>3. <strong>Investing in disaster risk reduction for resilience</strong></td>
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<td>Promoting investments in preventive measures, which cost less than remedying the consequences of disasters.</td>
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<td>4. <strong>Enhancing disaster preparedness for effective response and to &quot;Build Back Better&quot; in recovery, rehabilitation and reconstruction</strong></td>
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<td>Ensuring preparation, review and periodical update of disaster preparedness and contingency policies, plans and programmes.</td>
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3. Implementation mechanism
Working Group on Implementation (WGI)

- **Reporting requirement** under the Convention (art. 23)
  - 2000-2015 – every 2 years => 4-year reporting as of 2020 (now transition)
  - National implementation reports **not** public (password protected)
  - Preparation of a synthesis report for each reporting round **publicly available**

- **Deliberate decision not to establish a compliance mechanism** but to strengthen the WGI’s mandate to engage with countries

- Amended ToRs of WGI: Decision 2016/3, ECE/CP.TEIA/32/Add.1
  - Extension of term of the 10 WGI members (from 2 to 4 years)
  - **Engagement with countries if WGI becomes aware of difficulties**
  - Possibility to provide advice, request clarification, share good practices and gather information about innovations, national guidelines and other materials of interest
  - Monitoring of the Convention’s Assistance Programme and its Strategic Approach

- Modus operandi (teleconferences, subregional division of tasks, etc.)
WGI’s findings and recommendations on public information and participation (2014-2015)

- Implementation of art. 9 has slightly improved but level of availability of procedures for involving the public varies significantly among countries.

- Several Parties had strengthened public information/participation by:
  - Adopting new legislation (e.g., Poland, Russian Federation, Republic of North Macedonia)
  - Clarifying responsibilities of authorities for accidents with transboundary effects (Czechia)
  - Ratifying and implementing the Aarhus Convention (Switzerland in March 2014)
  - Transposing the Seveso III Directive (e.g., Hungary, Italy, Lithuania, Poland, United Kingdom)

- In some countries good involvement of the public in emergency response and land-use planning procedures but some countries reported that public participation was not granted fully, for example, only for preparedness measures but not for establishing or implementing preventive measures, or restricted to the domestic public.

WGI sees a need for exchanging good practices to reach a higher degree of public participation in the processes of establishing and implementing preventive and preparedness measures. It called on Parties to organize seminars, workshops and other relevant activities in this area to support putting in place laws and other legal acts that would grant the same rights to the domestic and foreign public.
Guidance materials (incl. for the public)

- Safety Guidelines and Good Practices (tailings management facilities, oil terminals, pipelines, fire-water management/retention)
- Checklists (transboundary contingency planning, tailings safety/management)
- Online training, videos and cartoons (including for the public)

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