

## Economic Commission for Europe

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

#### Seventh meeting

Stockholm, 14–16 November 2012

Item 15 of the provisional agenda

#### Plan of action under the Convention

### **Additional information on selected proposed workplan activities**

#### **Note by the secretariat**

The present document has been prepared further to a decision by the Bureau at its meeting in June 2012 (COPB45 CP.TEIA/B/2012/INF.4, para. 54) that an informal document provide a brief description of activities outlined in the draft workplan (in document ECE/CP.TEIA/2012/9). At the end of the description of each of the selected activities, and where appropriate, reference is made in italics to provisions of the Convention.

#### **Exchange of experience and good practices among Parties and to promote the continuous organization of bilateral exercises for preparedness**

In order to ensure effective response to industrial accidents, preparedness measures need to be put in place through the establishment of on-site and off-site emergency plans. When the effects of such an accident can be felt not only in the country where the accident happens, but also in neighbouring countries, cooperation between these countries is essential. Cooperation should not be improvised during emergency situations. Therefore the exchange of information on the preparedness and response measures adopted within and around the establishments is essential and preparedness and response plans should be made compatible. Cooperation should include tests and exercises of the plans

In situations where transboundary effects of industrial accidents are possible, the Convention requests Parties to make the contingency plans compatible. For this to be effective, the plans need to be tested through regular exercises.

The Working Group on Implementation observed that there was scope for improvement of preparedness and response in a transboundary context. The Working Group recommends that cooperation be increased between countries in the transboundary context, taking into account that transboundary cooperation also needs to be on a practical level. In fact countries reported that failures or gaps in plans and practical follow up have been identified when jointly exercising contingency plans in a transboundary setting. Therefore the Working Group calls on Parties to strengthen their common activities also by performing tests and exercises.

#### *Article 3. General provisions*

2. The Parties shall, by means of exchange of information, consultation and other cooperative measures and without undue delay, develop and implement policies and strategies for reducing the risks of industrial accidents and improving preventive, preparedness and response measures, including restoration measures, taking into account, in

order to avoid unnecessary duplication, efforts already made at national and international levels.

*Article 8. Emergency preparedness*

2. The Party of origin shall ensure for hazardous activities the preparation and implementation of on-site contingency plans, including suitable measures for response and other measures to prevent and minimize transboundary effects. The Party of origin shall provide to the other Parties concerned the elements it has for the elaboration of contingency plans.

3. Each Party shall ensure for hazardous activities the preparation and implementation of off-site contingency plans covering measures to be taken within its territory to prevent and minimize transboundary effects. In preparing these plans, account shall be taken of the conclusions of analysis and evaluation, in particular the matters set out in Annex V, paragraph 2, subparagraphs (1) to (5). Parties concerned shall endeavour to make such plans compatible. Where appropriate, joint off-site contingency plans shall be drawn up in order to facilitate the adoption of adequate response measures.

4. Contingency plans should be reviewed regularly, or when circumstances so require, taking into account the experience gained in dealing with actual emergencies.

**Sharing good practices for increasing public involvement in national work on industrial safety**

Information to and participation of the public is one of the requirements of the Convention (art. 9).

The majority of Parties indicated in their reports on implementation of the Convention that they have the necessary legislation to grant information to and participation of the public in place. The majority of the countries also indicated that they are continuously looking for more effective ways to inform the public. However, they also reported that the public does not take advantage of all the possibilities to gather information on industrial safety. In addition the Working Group on Implementation noted that several Parties, when replying to the question concerning making information available to the public, misunderstood it to the effect that it only related to information in the event of an accident.

The Working Group concluded that more work should be carried out to improve the awareness of Parties in this regard. It also strongly reiterated the importance of creating and maintaining mechanisms for informing the public and concluded that the area of information and public participation remains one where countries would benefit from the exchange of good practices and guidelines. Therefore, the Working Group on Implementation working on this issue in conjunction with the European Commission (especially in view of the implementation of the Seveso III Directive) and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

*Article 9. Information to, and Participation of the Public*

1. The Parties shall ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. This information shall be transmitted through such channels as the Parties deem appropriate, shall include the elements contained in Annex VIII hereto and should take into account matters set out in Annex V, paragraph 2, subparagraphs (1) to (4) and (9).

2. The Party of origin shall, in accordance with the provisions of this Convention and whenever possible and appropriate, give the public in the areas capable of being affected an opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures, and shall ensure that the

opportunity given to the public of the affected Party is equivalent to that given to the public of the Party of origin.

3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide natural or legal persons who are being or are capable of being adversely affected by the transboundary effects of an industrial accident in the territory of a Party, with access to, and treatment in the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing a decision affecting their rights, equivalent to those available to persons within their own jurisdiction.

### **Development of a guide on methodology for hazard rating**

Hazard rating is strictly connected to risk assessment and to the identification of hazardous activities, one of the pillars of preventive measures.

Hazard rating of installations can be the basis for prioritizing planning and designing inspections if a clear methodology is in place for the creation of ratings. This aspect is particularly important when, as now, many countries face a financial crisis, and governments may seek to optimise the number of inspections per year.

The development of a guide on methodology for hazard rating, together with partners, came as one of the conclusions to the workshop on costs-effectiveness for major accident prevention (Warsaw, 12 October 2011). Different Parties and countries beneficiary to the Assistance Programme indicated in their reports on implementation, as a priority, the enhancement of risk-assessment techniques, such as hazard rating.

The creation of a guide methodology for hazard rating could be also very useful for maintaining up-to-date inventories of hazardous activities.

In the past the Bureau of the Conference of the Parties and the Working Group on Implementation indicated as possible partner the European Process Safety Centre (EPSC), which had indicated the aim of working on this topic.

#### *Article 4. Identification, consultation and advice*

1. For the purpose of undertaking preventive measures and setting up preparedness measures, the Party of origin shall take measures, as appropriate, to identify hazardous activities within its jurisdiction and to ensure that affected Parties are notified of any such proposed or existing activity.

2. Parties concerned shall, at the initiative of any such Party, enter into discussions on the identification of those hazardous activities that are, reasonably, capable of causing transboundary effects. If the Parties concerned do not agree on whether an activity is such a hazardous activity, any such Party may, unless the Parties concerned agree on another method of resolving the question, submit that question to an inquiry commission in accordance with the provisions of Annex II hereto for advice.

3. The Parties shall, with respect to proposed or existing hazardous activities, apply the procedures set out in Annex III hereto.

4. When a hazardous activity is subject to an environmental impact assessment in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context and that assessment includes an evaluation of the transboundary effects of industrial accidents from the hazardous activity which is performed in conformity with the terms of this Convention, the final decision taken for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context shall fulfil the relevant requirements of this Convention.

*Article 18. Conference of the Parties*

6. The Conference of the Parties shall adopt guidelines and criteria to facilitate the identification of hazardous activities for the purposes of this Convention.

*Annex VI. Decision-making on siting pursuant to Article 7***Development by a group of safety and land-use planning experts, and with partners, of criteria or standards for safety and land-use planning, incorporating long-term trends**

As stated in the Convention, “Within the framework of its legal system, the Party of origin shall, with the objective of minimizing the risk to the population and the environment of all affected Parties, seek the establishment of policies on the siting of new hazardous activities and on significant modifications to existing hazardous activities”.

At the joint seminar on land-use planning around hazardous industrial sites (The Hague, 11-12 November 2010), participants agreed that safety aspects were not well integrated in land-use planning and that cooperation was lacking between the main stakeholders. They also concluded that there is the need to develop jointly by a group of safety and land-use planning experts a guideline on safety and land-use planning that would contain criteria or standards that would take into account of different levels of development by different countries.

Many Parties reported in their implementation reports having issued further guidelines among others on land-use planning. Almost all Parties also reported having basic legislation and policies for land-use planning for hazardous activities and referred to laws on land-use and spatial planning. Despite this, from the overall review it was clear that further guidance was needed. Some of the aspects raised concerned: (a) the need to balance economy and employment considerations with safety and environmental aspects; (b) difficult cooperation between safety officers and land-use planners (also among EU member States). Some industrialized countries indicated that they would find some kind of concrete siting criteria useful.

The Bureau and the Working Group on Implementation, when discussing this topic, agreed that the development of such guidance could include the development of indicators and criteria for what the text of the Convention indicates as siting and might be carried out jointly with the European Commission (this could also be published as a book or compilation, for example).

*Article 7. Decision-making on siting*

Within the framework of its legal system, the Party of origin shall, with the objective of minimizing the risk to the population and the environment of all affected Parties, seek the establishment of policies on the siting of new hazardous activities and on significant modifications to existing hazardous activities. Within the framework of their legal systems, the affected Parties shall seek the establishment of policies on significant developments in areas which could be affected by transboundary effects of an industrial accident arising out of a hazardous activity so as to minimize the risks involved. In elaborating and establishing these policies, the Parties should consider the matters set out in Annex V, paragraph 2, subparagraphs (1) to (8), and Annex VI hereto.

**Activities to raise awareness of the risk of complacency, to ensure prevention and to maintain a high level of safety**

The Convention, together with the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, organized a seminar on the occasion of the twenty-

fifth anniversary of the Sandoz accident. One of the aims of the seminar was to reflect on the work carried out and progress achieved in the area of the prevention of accidental water pollution in the UNECE region.

One of the aspects noted during the event was that the progress made brought with it a silent enemy: complacency, especially the risk of complacency in ensuring prevention and maintaining a high level of safety.

The participants agreed that achieving a relatively high level of safety may give the impression that hazards and risks are under control and that no more substantial efforts are needed in this area. Such a perception — complacency — could lead to a deteriorating safety level and consequently to the occurrence of accidents. It was also noted that due to the complacency phenomenon, the level of knowledge is decreasing and that expertise is not transferred from one generation to another. These issues need, therefore, to be addressed.

One of the recommendations formulated by the participants to the seminar was addressed to the Conference and the Meeting of the Parties to the Industrial Accidents and Water Conventions, respectively, for them to encourage awareness-raising campaigns to address complacency and to promote activities aimed at the transfer of knowledge between generations of safety experts.

The Bureau and the Working Group on Implementation supported this recommendation and proposed this aspect to be tackled with partners. Among the possible partners identified was the European Process Safety Centre.

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