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**CONFERENCE OF THE PARTIES
TO THE CONVENTION ON THE TRANSBOUNDARY
EFFECTS OF INDUSTRIAL ACCIDENTS**

Second meeting, 6-8 November 2002
(Item 6 (a) of the provisional agenda)

**KEY OBSTACLES IN ACCEDING TO AND IMPLEMENTING THE
CONVENTION BY THE CAUCASIAN AND CENTRAL ASIAN COUNTRIES**

BACKGROUND PAPER

**FOR THE SUBREGIONAL WORKSHOP
ON THE IMPLEMENTATION OF THE CONVENTION ON THE
TRANSBOUNDARY EFFECTS OF INDUSTRIAL ACCIDENTS*/
(13-15 March 2003, Erevan, Armenia)**

Introduction

1. The process of ratification or accession to the Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) by UNECE member countries is progressing slowly. Currently, twenty-five UNECE member countries of a total of fifty-five, and the European Community are Parties to the Industrial Accidents Convention.

*/ This background paper was compiled by the delegations of Armenia and Switzerland, the Regional Centre for Environmental Safety in Poland and the Convention's secretariat on the basis of replies to a questionnaire, received from the following six Caucasian and Central Asian UNECE member countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan.

2. The Caucasian and Central Asian UNECE member countries did not directly participate in the preparation and adoption of the Industrial Accidents Convention and did not sign the instrument in Helsinki in 1992. Only two of them, Armenia, and Kazakhstan acceded to the Convention in 1997 and 2001, respectively.

3. The Caucasian and Central Asian countries face numerous challenges in their economic transition to market conditions. Among them are issues of reviving and developing economic activity, and in particular, enhancing industrial production. This process should be complemented with actions ensuring the safe production, transport, handling and storage of chemicals, in particular hazardous substances. For this purpose, the relevant national legislation and safety management policies have to be drawn up, the national and local competent authorities have to be established and safety management systems and emergency plans have to be developed at the installation level.

4. On the basis of preliminary information provided by the Caucasian and Central Asian countries, the Conference of the Parties, at its first meeting in November 2000, recognized that these countries are facing difficulties in acceding to and implementing the Industrial Accidents Convention. Therefore, the Conference of the Parties decided to organize a subregional workshop on the implementation of the Convention on the Transboundary Effects of Industrial Accidents to serve especially the Caucasian countries (Armenia, Azerbaijan and Georgia) and the Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan).

5. The workshop will be divided into three parts and is expected to achieve the following goals:

(a) To identify specific problems encountered by these countries in the process of acceding to and implementing the Industrial Accidents Convention;

(b) To provide information on the Convention itself and on how it is being implemented in other countries of the UNECE region, and

(c) To try to work out an internationally supported programme to assist these countries in overcoming their problems.

6. In order to facilitate a productive discussion during the workshop, the Bureau of the Conference of the Parties requested that a background document highlighting the key obstacles in the accession to and implementation of the Industrial Accidents Convention by the Caucasian and Central Asian countries be prepared. In order to gather information on the key obstacles in a consistent way, a questionnaire was prepared by the Bureau and the Convention's secretariat and distributed among the eight countries of the two subregions. The present document has been drawn up on the basis of replies to the questionnaire received from a majority of these countries.

I. RESPONSES TO THE QUESTIONNAIRE

7. The following six countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan responded to the questionnaire. This section contains a compilation of the responses received, grouped according to the following issues:

- (a) Accession to the Industrial Accidents Convention;
- (b) Legal framework for the prevention of, preparedness for and response to industrial accidents and competent authorities;
- (c) Identification of hazardous activities within the scope of the Industrial Accidents Convention;
- (d) Industrial accident notification systems, including points of contact for accident notification and mutual assistance at national, regional and local levels;
- (e) Bilateral cooperation with neighbouring countries in view of responding to industrial accidents capable of causing transboundary effects and in view of providing assistance in case of an industrial accident;
- (f) Cooperation between national authorities and services on the prevention of, preparedness for and the mitigation of the effects of industrial accidents;
- (g) Framework to ensure information to, and participation of the public (involvement of competent authorities at national, regional and local levels and of the industry); and
- (h) Education and training of personnel from government and industry in the field of prevention, preparedness for and response to industrial accidents.

(a) Accession to the Industrial Accidents Convention

8. So far only Armenia and Kazakhstan acceded to the Industrial Accidents Convention. The Government of Azerbaijan is working towards acceding to the Convention. The Governments of Georgia, Kyrgyzstan and Uzbekistan are still at the stage of considering entering an accession process. No information is currently available concerning the intentions of the Governments of Tajikistan and Turkmenistan.

9. In general, it can be summarized, that there is some hesitance of some of the countries to accede to the Industrial Accidents Convention on their own. They believe that common positions on key provisions of the Convention (i.e. identification and notification of hazardous activities, common procedures for off-site emergency planning, information of the public, responsibility for damage) should be worked out between neighbouring countries before their joint accession to the Convention.

(b) Legal framework for the prevention of, preparedness for and the response to industrial accidents and competent authorities

10. The Caucasian and Central Asian countries adopted a wide range of regulations and governmental decisions, which constitute a legal framework for preventing and responding to emergency situations, including industrial accidents. These comprise acts on: environmental protection, hazardous chemicals and waste, protection of the public in emergency situations, public health and epidemiological well-being, environmental impact assessment, and industrial safety in hazardous facilities.

11. Kazakhstan has the most developed regulatory system concerning prevention of and preparedness for major industrial accidents as well as mitigation of their effects. It consists of the following eight legal acts on:

- Extraordinary Natural and Technological Hazards;
- Protection of the Environment;
- Emergency Rescue Services and the Status of the Rescue Services;
- Civil Defence;
- Fire Protection;
- Legal Aspects of Emergency Situations;
- Population Welfare;
- Radiological Protection of Population; and
- 12 other presidential dispositions and governmental legal acts.

12. Some of the other countries specifically mention the following legal acts within their regulations concerning prevention and response to industrial accidents:

- Armenia: Act on Licensing;
Act on Population Protection in a State of Emergency; and
Act on the Protection of Atmospheric Air, and Water;
- Georgia: Act on Dangerous Chemical Substances;
Act on Natural Disasters; and
Act on Environmental Audits;
- Kyrgyzstan: Act on Industrial Safety of Hazardous Installations

13. However, the countries of the two subregions recognize the need to enhance their legal framework and bring their national legislation in line with, e.g. European standards, which would assist them to comply with the provisions of the Industrial Accidents Convention.

14. Armenia and Kazakhstan, the two countries that have acceded to the Industrial Accidents Convention, designated, through a governmental decision, the following competent authorities, responsible for the implementation of the Convention, according to its article 17:

- Armenia: Ministry of Nature Protection; and
Department for Emergency Situations;

- Kazakhstan: Emergency Agency of the Republic of Kazakhstan; and Ministry of Natural Resources and Environmental Protection.

15. Georgia, Kyrgyzstan and Uzbekistan designated the following governmental organizations which most probably will become the competent authorities after their accession to the Industrial Accidents Convention:

- Georgia: Department for Emergency Situations in the Ministry of Interior;
- Kyrgyzstan: Ministry of the Environment and Emergency Situations; and National Inspection for Monitoring of Industrial Hazards;
- Uzbekistan: State Committee for Nature Protection; and Ministry for Emergency Situations.

(c) Identification of hazardous activities within the scope of the Industrial Accidents Convention

16. The information provided by a majority of the Caucasian and Central Asian countries shows that the quantities of hazardous substances being currently handled at hazardous activities are often below the threshold limits set out in annex I to the Industrial Accidents Convention. This is due to a significant economic downturn in these countries and a steep decline in production capacity utilization. However, these activities are still considered as being hazardous with a high risk potential due to the outdated technology and obsolete equipment that is still in operation.

17. Hazardous activities are defined in Armenia according to Government Decision No. 702 of November 1998. It sets out the rules on the safety permit system for industrial activities. In this context, a list of hazardous activities, based on their risk potential (quantities and physical and chemical properties, including toxicity of hazardous substances, by-products and wastes as well as the natural and climatic conditions bearing on the hazardous activity) is compiled and updated annually. These activities are required to obtain a safety permit within a two-step approval mechanism. Safety permits contain details concerning specific hazardous substances handled within the activity and an analysis of the risks of an industrial accident and its possible effects.

18. The identification of hazardous activities in Kazakhstan is carried out on the basis of Governmental Decision No. 89 of 2001. In this context, 520 installations were included in a list of high-risk activities capable of causing a major industrial accident. The list includes seventeen activities capable of causing a transboundary effect in case of an accident. These activities refer to the following three economic sectors:

- Petrochemical and chemical industry - 4 installations;
- Oil and natural gas pipelines - 5 installations; and
- Oil and natural gas extraction industry - 8 installations.

19. The identification of hazardous activities in Georgia is regulated by the “Hazardous Chemicals” Act, which provides for the identification of hazardous substances with harmful effects on human health and the environment. The “Nature Protection Permits” Act stipulates

the need to categorize activities in terms of their scope, significance and possible environmental effects.

20. In Kyrgyzstan, the identification of hazardous activities is carried out in accordance with the “Hazardous Production Facilities” (Industrial Safety) Act of October 2001.

21. It seems that some of the Caucasian and Central Asian countries define their activities with potential hazards for the public and the environment on the basis of their national legislation on major accident prevention with their own criteria. If these criteria do not agree with the criteria of annex I to the Industrial Accidents Convention, it is difficult to identify those hazardous facilities, which fall into the scope of the Convention. This is an important point to be resolved for a consistent implementation of the Convention by the countries of the two subregions and for the notification of hazardous activities among neighbouring countries, as required by the Convention.

(d) Industrial accidents notification systems, including points of contact for accident notification and mutual assistance at national, regional and local levels

22. National and local industrial accident notification systems exist in all the Caucasian and Central Asian countries. They are operated by organizations for emergency situations, in cooperation with other departments responsible for environmental protection. Little, if any information can be drawn from the individual responses on the effectiveness of the systems, how they are interconnected and on operational aspects.

23. In Armenia, at the national level, a contact point for notification of industrial accidents and for mutual assistance is operational 24 hours a day within the Department of Emergency Situations of the Ministry of Nature Protection.

24. Azerbaijan has designated the State Committee on Ecology as the point of contact for industrial accident notification and mutual assistance. The point of contact is operational 24 hours a day.

25. In Georgia, the Department for Emergency Situations and Public Defence of the Ministry of Internal Affairs is responsible for industrial accident notification (including those with transboundary effects) and mutual assistance. The Department of Environmental Policy and International Affairs as well as the Department of Hydrometeorology and Environmental Monitoring, of the Ministry of Environment, are also designated as the Georgian point of contact for industrial accident notification and mutual assistance.

26. In Kazakhstan, the Emergency Agency was designated as the contact point for industrial accident notification and mutual assistance under the Industrial Accidents Convention.

27. Kyrgyzstan has designated the Ministry of Environment and Emergency Situations as the point of contact for industrial accident notification and mutual assistance.

28. In Uzbekistan, the State Committee for Nature Protection and the Ministry for Emergency Situations have developed a unified system for notification of industrial accidents at national and local levels. The information is distributed in parallel: by a system of the State Committee for Nature Protection – for the notification and assessment of environmental effects and by a system of the Ministry for Emergency Situations for immediate response actions. The State Committee for Nature Protection has been designated as the point of contact for accident notification and mutual assistance within the framework of the UNECE Industrial Accident Notification System under the Industrial Accidents Convention.

29. Most of the countries point to difficulties in obtaining adequate equipment and funding to properly operate a notification system and a point of contact. A request for assistance in enhancing existing notification systems and updating the functional organization of the points of contact according to the requirements under the UNECE Industrial Accident Notification System of the Industrial Accidents Convention is mentioned in some of the responses.

(e) Bilateral cooperation with neighbouring countries in view of responding to industrial accidents capable of causing transboundary effects and in view of providing assistance in case of an industrial accident

30. Some of the Caucasian and Central Asian countries have bilateral agreements with their neighbouring countries. An example is the agreement between Kazakhstan and the Russian Federation on the cooperation on prevention of industrial accidents, catastrophes, natural disasters and the mitigation of their effects in the border areas.

31. Other cross-border consultations are held either in the framework of bilateral agreements of a broader scope (i.e. Kyrgyzstan is in consultation with China, the Russian Federation, Kazakhstan, Tajikistan and Uzbekistan; Armenia has agreements with Iran and Greece) or in the framework of multilateral agreements.

32. In this context, several multilateral agreements concerning the prevention of industrial accidents and natural disasters as well as response to their transboundary effects are worth mentioning:

- Agreement between the Newly Independent States on the cooperation on industrial safety of hazardous industrial installations;
- Agreement between the Newly Independent States on the exchange of information on emergency situations, natural disasters and industrial accidents as well as on cooperation on the exchange of information during the mitigation of their effects including information on providing assistance to the affected population;
- Agreement between the Newly Independent States on responsibility for damage resulting from natural disasters and industrial accidents, and on the

- rules and procedures for compensation of damage, including costs of mitigation operations and assistance to the affected population;
- Agreement between the Newly Independent States on the prevention of emergency situations and mitigation of their effects, in force since 1996;
- Agreement between the Countries of the Black Sea Basin on the prevention of natural disasters and industrial accidents and the mitigation of their effects, in force since 1998.

(f) Cooperation between national authorities and services on the prevention of, preparedness for and the mitigation of the effects of industrial accidents

33. Cooperation between a number of authorities and services responsible for the prevention of, preparedness for industrial accidents and the mitigation of their effects exists in all of the countries that responded to the questionnaire. The differences between the countries are in the different distribution of responsibilities among the following authorities and services:

- Environmental protection authorities (impact on the environment);
- Technological inspection authorities (industrial safety); and
- Emergency situation and civil defence authorities (rescue operations).

34. In all of the countries, these authorities have their own regional and local offices with a vertical structure. The horizontal coordination (at all levels) takes place in the framework of intersectoral committees and commissions. Other sectors than those mentioned above are also represented in these bodies. This can be illustrated with the example of Uzbekistan where a number of authorities are involved in the process of preventing, preparing for, notifying, protecting the population against and mitigating the effects of industrial accidents within the framework of the National System for Prevention of and Acting in Emergency Situations. The following authorities are involved in this System:

- Ministry for Emergency Situations;
- National Committee for Nature Protection;
- Ministry of the Interior;
- Ministry of Health Protection;
- Ministry of Defence;
- Ministry of Civil Services;
- Ministry of Agriculture and Water Management;
- Ministry of Power Engineering Industry and Electrification; and
- Ministry of Higher and Special Secondary Education.

35. The main responsibility for responding to industrial accidents lies directly with the operators of installations. This is best shown by the examples of Armenia and Kyrgyzstan. According to national legislation, operators of hazardous activities are obliged to:

- Establish preparedness measures, including emergency plans in case of industrial accidents;
- Mitigate possible effects of such accidents;
- Establish and maintain relevant resources for above purposes;

- Develop systems of surveillance and notification in case of an accident; and
- Conduct relevant training of personnel.

(g) Framework to ensure information to, and participation of the public (involvement of competent authorities at national, regional and local levels and of the industry)

36. Many of the Caucasian and Central Asian countries refer to the requirements of the Aarhus Convention, which are being implemented in these countries in parallel with provisions of national legislation. In general, the responses refer to providing information to the public in case of an emergency situation but are less informative concerning participation of the public in drawing up preventive measures and emergency plans. Information to the public is provided through appropriate notification systems (audio signals, radio or telephone) and by mass media.

37. In Armenia, the provision of information to and participation of the public is regulated by the “Protection of Nature” Act and the “Protection of the Population in Emergencies” Act.

38. In Kazakhstan, an interesting practice is in place concerning public audits of hazardous activities, including those installations, which are capable of causing transboundary effects in the case of an industrial accident. Representatives of mass media and local authorities of the neighbouring countries take part in these assessments. The results of these public audits are made available through the mass media. Audit results are maintained by the authorities and the operators of hazardous activities and can be accessed by the public.

39. In Kazakhstan, according to relevant legislative requirements, the public, in the event of a natural or technological emergency situation, also has the right to:

- Be informed of the risk at the location of their residence and of necessary precautions;
- Communicate personally or collectively with the national and local authorities;
- Participate in activities for prevention and liquidation of emergency situations and to utilise the technical measures of civil protection;
- Receive health, life and private property protection in the event of an emergency situation;
- Be provided with obligatory state social security, discounts and compensations for damage to health during the liquidation of emergency situations;
- Receive pension for the loss of the ability to work or the loss of the only person supporting family welfare, during the liquidation of emergency situations;
- Receive compensation for the damages to health and property inflicted by the effects of emergency situations.

40. Article 9 of the Industrial Accidents Convention concerns information and participation of the public in the decision-making process regarding major accident prevention. The strong focus of the responses on the information in an emergency situation suggests, that – as in many other countries in the UNECE region - the requirements of article 9 of the Convention are not always properly understood.

(h) Education and training of personnel from government and industry in the field of prevention of, preparedness for and response to industrial accidents

41. All the countries, which responded to the questionnaire, operate a system of enhancing the qualifications of the personnel of national administrations in the area of emergency situations as well as a system of training of personnel of hazardous installations in the areas of safety and response to emergencies.

42. However, the Caucasian and Central Asian countries would welcome assistance in drawing up a programme of technical seminars and training courses.

II. CONCLUSIONS

43. The planned subregional workshop on the implementation of the Convention on the Transboundary Effects of Industrial Accidents aims to accelerate the process of accession of the Caucasian and Central Asian countries to the Convention and its implementation by enhancing national capacities and increasing awareness of the activities carried out under the Convention. The responses to the questionnaire have brought forward a clear need for the planned workshop. It has been scheduled to take place in Erevan, Armenia on 13-15 March 2003.

44. The responses to the questionnaire also have brought forward a number of issues to be addressed specifically during the workshop in order to help the Caucasian and Central Asian countries to accede to and implement the Industrial Accidents Convention. They are grouped according to the following three parts of the workshop and their expected outcome:

45. First part: The countries' delegations from the Caucasus and Central Asia should present the status of accession and implementation of the Industrial Accidents Convention in their country. They should also identify specific problems encountered in the process of acceding to and implementing the Convention. It is expected that the issues mentioned in this background paper will be further elaborated at the workshop. Such issues may be, among others:

(a) Definition of activities with potential hazards for the public and the environment on the basis of national legislation on major accident prevention with its own criteria and comparison of these criteria with those of annex I to the Convention. The understanding of this issue is an important point to be resolved for a consistent implementation of the Convention in the two subregions and for the notification of hazardous activities among neighbouring Parties, as required by the Convention.

(b) Definition of necessary assistance in enhancing existing notification systems and updating the functional organization of the points of contact according to the requirements under the UNECE Industrial Accident Notification System of the Convention.

(c) Requirements of article 9 of the Convention concerning information and participation of the public in the decision-making process regarding major accident prevention.

46. Second Part: Representatives from the UNECE secretariat and the European Commission should provide information on the Industrial Accidents Convention itself and on the “Seveso II” Directive. Other UNECE member countries should explain how the Convention is being implemented in their country. This information and experience will definitely be of value to the Caucasian and Central Asian countries planning to accede to and implement the Convention. The presentations could be as follows:

(a) UNECE secretariat on the Convention;

(b) European Commission on the “Seveso II” Directive;

(c) UNECE member country, which has ratified and implemented the Convention;

(d) Member States of the European Union (EU), which has transposed the “Seveso II” Directive into its national legislation and therefore created the necessary basis for implementing the Convention;

(e) Candidate country seeking EU membership – experience in adapting its environmental regulations to meet the requirements of the “Seveso II” Directive; and

(f) Other Newly Independent State – experience in addressing the prevention of, preparedness for and response to industrial accidents.

47. Third Part: All the delegations should engage in the discussion to find ways in which the international community can support the countries of the Caucasus and Central Asia to accelerate their accession to the Industrial Accidents Convention and assist them in their efforts to implement it in practice. Such programmes may concern the following tasks:

(a) Increase the awareness among national, regional and local level authorities of the countries of the Caucasus and Central Asia of the importance to properly address the issue of industrial safety;

(b) Provide better access to relevant databases, best practices and guidelines and other documents in Russian;

(c) Support workshops and training courses on specific topics (i.e. identification of hazardous activities – hazardous substances; accident notification systems – points of contact; safety in hazardous activities – best practices/guidelines). Such workshops and training courses, with the participation of international experts, would be a platform for the transfer of knowledge and to share experience on prevention of industrial accidents, preparedness for emergency situations as well as mitigation of their effects. In this context, the APELL programme might prove to be very useful;

(d) Support the communication and other technical equipment used by safety authorities (e.g. points of contact);

(e) Facilitate discussions among the countries of the Caucasus and Central Asia in order to find and draw up possible solutions to the question of insurance for hazardous activities.