

**CONVENTION ON THE PROTECTION AND
USE OF TRANSBOUNDARY WATERCOURSES
AND INTERNATIONAL LAKES**

Joint ad hoc expert group on water and industrial accidents

Third (extended) meeting, 4 July 2002

MINUTES OF THE THIRD (EXTENDED) MEETING¹

Introduction

1. The third (extended) meeting of the Joint ad hoc expert group on water and industrial accidents² (joint expert group) was held at Geneva on 4 July 2002. Mr. Martin Schiess (Switzerland) – Co-Chairman of the joint expert group opened and chaired the meeting.
2. The extended meeting of the joint expert group was held following a request from the Working Group on Civil Liability (Working Group) to draw up a draft of annex II concerning financial limits to the legally binding instrument on civil liability for transboundary damage caused by hazardous activities, within the scope of both conventions made at the Working Group's third meeting (MP.WAT/AC.3/2002/6 – CP.TEIA/AC.1/2002/6, paragraph 44). In order to achieve the goal set out above, the invitation to participate in the third meeting of the joint expert group was extended to legal experts from interested UNECE member countries and representatives of the insurance sector.
3. The third (extended) meeting was attended by: Ms. Sonja Niederberger (Austria), Mr. Martin Lindgeen (Denmark), Mr. Peter Paeffgen (Germany), Mr. Pal Popelyak and Mr. Ferenc Fömötör (Hungary), Ms. Mariska Van Hintum (Netherlands), Mr. Tomas Trcka (Slovak Republic), Mr. Jürg Bally and Mr. Martin Schiess (Switzerland), Mr. Charles Pirotte (European Commission) and Mr. Juerg Busenhardt (Swiss Reinsurance Company – Swiss RE; also on behalf of the Comité européen des assurances – CEA). The meeting was serviced by Mr. Sergiusz Ludwiczak (Secretary of the Industrial Accidents Convention). Ms. Francesca Bernardini and Ms. Evelina Rioukhina (UNECE secretariat) also participated.

¹ Prepared by the secretariat in consultation with the Chairman of the third (extended) meeting of the Joint ad hoc expert group.

² Under the auspices of the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) and the Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention).

I. Background information

4. Mr. Bally introduced the background of the request made by the Working Group to draw up annex II concerning financial limits under the envisaged instrument and provided general information on financial limits and how they are approached in other agreements.

5. Mr. Schiess informed the meeting on the basis for drawing up annex I concerning hazardous substances defining the scope of the new instrument and its contents. A draft of annex I was prepared by the joint expert group at its second meeting in Budapest on 15-16 April 2002, also on the request of the Working Group. It was presented and initially discussed at the Working Group's third meeting on 6-8 May 2002.

6. Mr. Busenhart informed the meeting on the products currently available on the insurance market. These only address coverage of damage to property, human health or loss of life. The premiums for such insurance are a function of the risk involved and are connected to the turnover of the establishment. In Switzerland, the minimum premiums range between 500 to 1000 units per million units of the insured amount (i.e. the premium for 10 million units of coverage would be in the range of 5 to 10 thousand units per annum). The common insurance drawn by small and medium sized industrial establishments range between 2 to 15 million Swiss Francs. The situation is similar in other western European countries, however Mr. Busenhart expressed his doubts if this is also the case in central and eastern Europe. However, at present, there are no insurance products available to address damage to the environment caused by industrial accidents and its possible restoration costs. The insurance sector is looking into the matter, including the collection and analysis of data, which would allow the calculation of relevant premiums. However, after the September 11th events, this is not a priority issue. Nevertheless, the market offers other products to address possible damages to the environment (i.e. bank guarantees or guarantees through the financial markets). The cost of bank guarantees is usually 2-3 per mille of the guaranteed amount and 6-7 per cent interest on the amount used. Mr. Busenhart informed the meeting that more details would be included in a working paper regarding the present status of insurability of damages to the environment, to be submitted to the Working Group at its fourth meeting.

II. Discussion and drawing up of annex II

7. The joint expert group after an extensive discussion and taking into account the draft annex I to the new instrument as set out in unanimously recommended:

- (a) That financial limits should reflect the actual hazard potential of the hazardous substances present within a hazardous activity and their quantities;
- (b) To establish the following three categories of hazardous activities:
 - (i) Category A - in which one or more hazardous substances falling into categories specified in Part I of Annex I are or may be present in quantities not exceeding four times the threshold quantities specified in Annex I;

- (ii) Category B - in which one or more hazardous substances falling into categories specified in Part I of Annex I are or may be present in quantities exceeding four times the threshold quantities specified in Annex I; and
 - (iii) Category C - in which one or more hazardous substances named in Part II of Annex I are or may be present in quantities at or in excess of the threshold quantity specified in Annex I.
- (c) To establish the following two financial limits for the above three categories of hazardous activities:
- (i) For category A hazardous activities – 5 million units of account;
 - (ii) For category B and C hazardous activities – 20 million units of account.

III. Closing of the meeting

8. The meeting participants agreed with the Chairman's suggestion to submit the above recommendations of the joint expert group on the content of annex II to the new instrument to the Working Group at its fourth meeting on 2-4 September 2002, as an official document. In this context, the meeting entrusted the Chairman and the secretariat to prepare such document and the minutes of this meeting and make it available to the Working group. The Chairman, closing the meeting, thanked all the participants for their extremely useful input into achieving the goal of the meeting.