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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 5 (b) of the provisional agenda)

FIRST REPORT ON THE IMPLEMENTATION OF THE CONVENTION

Prepared and submitted by the Working Group on Implementation

Introduction

1. According to article 23 of the UNECE Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention), Parties have an obligation to report on its implementation. Furthermore, in accordance with article 18, paragraph 2 (a), the Conference of the Parties shall review the Convention's implementation.
2. At its first meeting on 22 – 24 November 2000 in Brussels, the Conference of the Parties adopted the reporting format and reporting procedure to be used when reporting on the implementation of the Industrial Accidents Convention (CP.TEIA/2000/11). The reporting form was distributed to all Parties and other UNECE member countries by the secretariat on 20 July 2001. The Parties were requested to respond as fully and precisely as possible. The responses for the "First report on the implementation of the Convention" should have reached the Convention's secretariat no later than 31 March 2002. The secretariat sent reminders to Parties that did not meet the deadline.

3. The Conference of the Parties also invited other UNECE member countries to report on the work that they had undertaken to prevent the transboundary effects of industrial accidents. They were also encouraged to provide information on problems and obstacles to ratification/accession and on possible measures to overcome them.

4. To assist it in its task of monitoring the implementation of the Industrial Accidents Convention, the Conference of the Parties at its first meeting also established a Working Group on Implementation and adopted its terms of reference (ECE/CP.TEIA/2000/2, annex III, decision 2000/2, para. 4 and appendix).

5. In accordance with its terms of reference, one of the Working Group's tasks was to prepare the "First report on the implementation of the Convention" on the basis of the individual country reports and draw conclusions and make draft recommendations to strengthen the implementation of the Industrial Accidents Convention for adoption by the Conference of the Parties at its second meeting.

6. The Conference of the Parties elected representatives from the following Parties to serve as members of the Working Group until the second meeting of the Conference of the Parties: Austria, Czech Republic, Hungary, Republic of Moldova, and the European Community and entrusted the Bureau to accept further nominations from interested Parties. Such interest was expressed by Sweden and Switzerland.

7. The Working Group on Implementation met on 23-24 May 2002 in Brussels, at the invitation of the European Commission. The minutes of the meeting are contained in WGI/2/3 June 2002. Mr. E. Malasek (Czech Republic), Mr. L. Katai-Urban (Hungary), Mr. U. Bjurman (Sweden), Mr. B. Gay (Switzerland), and Mr. J. Wettig (European Community) took part in the meeting. Mr. S. Ludwiczak, the Convention's Secretary, was also present. The meeting elected Mr. Wettig and Mr. Malasek as its Chairman and Vice-Chairman, respectively.

I. REPORTING

8. At the time of the first meeting of the Working Group on Implementation, 23 UNECE member countries and the European Community had ratified, accepted or acceded to the Industrial Accidents Convention. Italy and the United Kingdom ratified the Convention on 2 July 2002 and 5 August 2002, bringing the total number of Parties to 26. For these two countries, the Convention will enter into force on 30 September 2002 and 3 November 2002, respectively. Therefore, the reporting obligation pursuant to article 23 of the Convention for the period ending in 2002 does not apply to Italy and the United Kingdom.

9. The Working Group based its "First report on the implementation of the Convention" on the reports from the following 17 Parties: Armenia, Austria, Bulgaria, Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Kazakhstan, Norway, Republic of Moldova, Russian Federation, Slovenia, Sweden, Switzerland and the European

Community. Two reports were received on a voluntary basis from other UNECE member countries, namely Slovakia and Ukraine.

10. The following seven Parties, four of them member States of the European Union (EU), did not meet their obligation to report on the implementation of the Industrial Accidents Convention: Albania, Denmark, Greece, Lithuania, Luxembourg, Monaco and Spain.

11. The Working Group appreciated the important work done by the 17 Parties and the two other UNECE member countries that had submitted a report. They all showed that they took the obligations under the Industrial Accidents Convention seriously. The Working Group considered that 19 reports was a number sufficient to draw some useful conclusions. However, the Working Group considered it unsatisfactory that close to a third of the Parties had not submitted a report and suggested that the seven above-mentioned Parties should be reminded of their obligations under the Convention.

II. ANALYSIS OF THE RESPONSES TO THE QUESTIONS IN THE REPORTING FORMAT

Section I: Competent Authorities (Q.1)

12. The secretariat provided in the reporting format sent to the UNECE member countries the name of the competent authority as well as the contact information such as address, phone and fax numbers as they appeared at the time on the Convention's Internet home page. The Parties were requested to check and update this information. The information proved largely up to date, though some of it still has to be checked further.

13. The list of competent authorities responsible for the implementation of the Industrial Accidents Convention contains no information from the following Parties: Albania, Denmark, Greece and Monaco. As these Parties are among those which did not submit a report, this information is still lacking.

14. The Working Group noted that, in general, the competent authorities were either the authorities responsible for environmental protection or those responsible for civil defence (including ministries of the interior). In about half of the countries, both have been designated as competent authorities. The Working Group stresses that in the latter case, particular attention must be given to the coordination between these authorities.

Section II: Implementation (Q.2 – Q.6)

Q.2 Information on legislation adopted or other measures taken in order to implement the Convention

15. All reports give a list of, and some information on, the legislation adopted or about to be adopted. The Czech Republic, Sweden and Switzerland give a good account of their legislation, indicating among other things what is required of the main stakeholders in industrial accident prevention, i.e. the operators and the authorities, to implement the Industrial Accidents Convention. Seven countries (Austria, Estonia, Finland, Germany, Hungary, Norway and Slovakia) just indicated that their legislation is a transposition of the “Seveso II” Directive of the European Community, though Hungary provides further information on its national legislation in other parts of its report. This was considered legitimate as the European Community submitted a report with a good description of the “Seveso II” Directive.

16. The remaining Parties give a very general description of the contents of the legislation that does not make it possible to assess whether the provisions of the Industrial Accidents Convention are all adequately covered. Croatia only mentions emergency planning legislation. Bulgaria and Slovenia mention legislation that is still provisional and not yet in force. Ukraine, not yet a Party, mentions drafts of planned legislation.

17. The Working Group concluded that a meaningful monitoring of the implementation is possible only on the basis of more specific information on national legislation.

Q.3 – Q.4 Problems and obstacles in implementing the Convention

18. The problems in implementing the Industrial Accidents Convention (Q.3) are not systematically reported. Austria, Bulgaria, Hungary, Norway, the Russian Federation, Slovakia, Slovenia and Sweden mention no difficulties. Among the problems reported there are very general ones (e.g. the consequences of the partition of Czechoslovakia, reported by the Czech Republic or the federal structure of the country in Germany, lack of designated authorities in Ukraine), problems related to the lack of legislation (Ukraine) or to the practical implementation of special provisions of the legislation (Switzerland: land-use planning, Czech Republic: information practice in view of terrorism threats), and very specific problems (e.g. lack of communication equipment in Armenia). The response of Croatia stands out among the countries with economies in transition as an honest assessment of its difficulties in that it identifies problems that the Working Group holds to be widespread in that part of the UNECE region. They relate to the identification of hazardous installations (data collection), the emergency preparedness (inadequate equipment, lack of experts) and mutual assistance and exchange of information (borders with countries not yet Parties).

19. Requests for assistance (Q.4) often do not match the problems mentioned by the countries under Q.3. They include general requests for training courses and workshops (Armenia, Bulgaria) and requests for specific workshops (Bulgaria: on public information and participation, Czech Republic: on domino effects, Croatia: on accident scenarios, Slovenia: on joint off-site contingency plans). Kazakhstan requests support in drawing up legislation and Slovakia information on bilateral/multilateral cooperation related to the identification of hazardous activities.

20. The Working Group concluded that the implementation of the Industrial Accidents Convention was still at an early stage and that feedback from the implementation did not yet allow a precise identification of the problems and needs.

Q.5 – Q.6 Problems and obstacles in ratifying the Convention

21. As only two UNECE member countries, which are not Parties have submitted a report, one of which mentions no difficulty in ratifying, the Working Group could not draw conclusions on the problems and obstacles in ratifying the Industrial Accidents Convention that may be relevant for all non-Parties. It noted, however, that EU member States, which have implemented the “Seveso II” Directive, and EU applicant countries, which are in the process of implementing it, should by now be in a position to ratify, as compliance with the “Seveso II” Directive also implies compliance with the Convention.

22. The Working Group concluded that EU member States and the EU applicant countries that had not yet ratified the Industrial Accidents Convention should be strongly encouraged to do so without delay.

Section III: Identification of Hazardous Activities (Q.7 – Q.8)

23. According to article 4 of the Industrial Accidents Convention, the Parties shall identify hazardous activities and ensure that the neighbouring Parties are notified of any such activity no later than two years after the entry into force of the Convention, i.e. no later than 19 April 2002. The Conference of the Parties decided that these activities should be reported in the implementation report with mention of the name, location and qualifying criteria.

24. The Working Group considers that the matter of identification of hazardous activities is crucial as it is the starting point for any meaningful cooperation between neighbouring Parties on the prevention of, preparedness for and response to industrial accidents, and that it deserves particular attention in the present report. The reporting on this point (Q.7) is summarised in the table below.

25. Excluding the three countries in which no hazardous activities that fulfil the qualifying criteria have been found, only seven of the other thirteen Parties (excluding the European Community) provided a list of hazardous activities in their report. Among those countries that did not provide a list, Bulgaria, the Czech Republic, Hungary, the Russian

Federation, Slovakia and Slovenia did not mention a problem with the identification of hazardous installations under question Q.3.

26. In the light of the experience of its members, the Working Group attributed this situation to difficulties with data collection, the interpretation of annex I to the Industrial Accidents Convention and of the location criteria contained in the “Guidelines to facilitate the identification of hazardous activities for the purposes of the Convention” adopted at the first meeting of the Conference of the Parties (ECE/CP.TEIA/2, annex IV).

Country	Hazardous activities		
	Identified	Reported	Notified
Estonia	Not applicable as no industrial activities fulfil the qualifying criteria		
Norway			
Sweden			
Austria	YES	YES	YES, partly
Germany	YES	YES	YES
Kazakhstan	YES	YES	YES, partly
Switzerland	YES	YES	YES, partly
Armenia	YES	YES	NO
Finland	YES	YES	NO
Republic of Moldova	YES	YES	NO
Czech Republic	YES	NO	YES, informally
Hungary	YES	NO	NO
Russian Federation	YES	NO	NO
Bulgaria	NO	Not applicable	
Croatia	NO		
Slovenia	NO		

27. The Working Group also noted that data on hazardous substances and their quantities in installations had already been gathered in many UNECE member countries for the purposes of other international agreements such as the international commissions for the protection of transboundary watercourses (Rhine, Danube, etc.) as well as in the framework of the implementation of the “Seveso II” Directive. This information should be taken into account for the purposes of identification of hazardous activities under the Industrial Accidents Convention.

28. The Working Group also noted that the notification had been carried out fully, i.e. to all concerned Parties, by one Party only: Germany.

29. The Working Group further noted that the information provided in the list under the heading “qualifying criteria” varied greatly. It ranged from the indication of the substances or groups of substances together with the quantities present at a hazardous activity (Austria, Switzerland) to the indication of which of the location criteria contained in the “Guidelines to facilitate the identification of hazardous activities for the purposes of the Convention” (ECE/CP.TEIA/2, annex IV) was fulfilled, without mentioning substances or quantities (Germany).

30. Finally, according to the responses to Q.8, a genuine bilateral activity to identify hazardous activities has taken place so far only between Germany and Austria, Germany and the Czech Republic, and Germany and Switzerland.

31. The Working Group concluded that the Parties should be reminded of their obligation to properly identify their hazardous facilities and notify the potentially affected Parties and that assistance should be provided to countries still having to do so. The Working Group also concluded that there was a need to better explain what kind of a response was expected under the heading “qualifying criteria”.

Section IV: Prevention of Industrial Accidents (Q.9)

Q.9 Information on measures specifically aiming to prevent industrial accidents

32. In most reports the information given consisted mainly of references to legislation, duplicating to a some extent information given under Q.2 or naming legislation which should have been given under Q.2. Most reports also made reference to the fact that inspections took place and sometimes named the competent bodies. Two reports stand out. The report from Norway gives a rather detailed account on how its legislation on safety, health and environment (SHE) works in practice and Switzerland’s report gives a list of the guidance documents produced to facilitate the implementation of its legislation on major accidents.

33. The Working Group noted that the purpose of question Q.9 was to obtain information on the measures taken to facilitate the practical implementation of the legislation mentioned under Q.2. The possible measures are listed in annex IV to the Industrial Accidents Convention.

34. The Working Group concluded that the present wording in the reporting format did not state clearly enough that the response should give information on the measures taken to facilitate the practical implementation of the legislation mentioned under Q.2.

Section V: Industrial Accident Notification (Q.10 – Q.18)

Q.10 - Q.17 Information on point of contacts for industrial accident notification and for mutual assistance

35. The Working Group noted that points of contact for industrial accident notification and for mutual assistance at the national level had been established in all reporting countries and that, according to the reports, these points of contact, with one exception (Bulgaria, for accident notification), were operational at all times. The Working Group also noted that, while the working languages might differ, they were adequate for the purposes of contact with the neighbouring Parties.

36. The network within the framework of the UNECE Industrial Accidents Notification System comprises points of contact in 37 UNECE member countries and the European Commission. The Working Group also took note of the results of two tests carried out by Switzerland in 2000 and Croatia in 2001. These results showed that 9 of the 37 points of contact were not reachable at all by any means.

37. The Working Group concluded that further steps should be taken to make the UNECE Industrial Accidents Notification System more effective and to ensure that all points of contact were operational at all times.

Q.18 Establishment of regional/local industrial accident notification systems

38. The Working Group noted that the establishment of industrial accident notification systems at the regional/local level was in general by far not as advanced as at the national level, though there were exceptions, such as the collaboration between Germany and Switzerland.

39. The Working Group stressed the importance of well-functioning systems at these levels and concluded that there was a need to provide assistance for the establishment of industrial accident notification systems at the regional/local level in some countries.

Section VI: Emergency Preparedness (Q.19 – Q.20)

Q.19 Information on emergency preparedness

40. As in the response to the question on prevention measures (Q.9), the information given in many, though not all, reports consisted mainly of references to legislation.

41. The Working Group concluded that the present wording in the reporting format did not state clearly enough that the response should give information on the practical measures taken to target emergency preparedness.

Q.20 Information on bilateral/multilateral cooperation

42. Though many general agreements on bilateral/multilateral cooperation covering also emergency preparedness have been concluded between Parties, practical cooperation relating to on- or off-site contingency plans takes place only in a few countries.

43. The Working Group concluded that the lack of practical cooperation relating to on- or off-site contingency plans might be explained to some extent by the lack of knowledge about hazardous installations, which formed the basis for meaningful cooperation.

Section VII: Scientific and Technological Cooperation and Exchange of Information (Q.21)

Q.21 Information on bilateral/multilateral cooperation

44. The Working Group noted that the preferred way of exchanging information was in a multilateral context. This can be within the context of the Industrial Accidents Convention (as in the case of the workshop on the facilitation of the exchange of safety management systems and safety technology to be held on 4-5 November 2002 in Chisinau), but other agreements, such as the different international river commissions or the Moscow agreement signed by the newly independent States on 28 September 2001 also provide a forum for exchanging information relevant to the implementation of the Convention. Bilateral exchange of information is rather limited, though some countries have been active through bilateral programmes aimed at providing assistance, such as Germany (for Central and East European countries and newly independent States), Sweden (Baltic countries) and Switzerland (Czech Republic).

Section VIII: Information and Participation of the Public (Q.22 – Q.25)

Q.22- Q.23 Participation of the public

45. In seven reports (Armenia, Bulgaria, Estonia, Republic of Moldova, the Russian Federation, Slovakia and Ukraine) the responses to these questions were missing or focused on information rather than participation. In a few cases (Armenia, Republic of Moldova, Ukraine), reference was made to the fact that the country had ratified the Aarhus Convention. With the exceptions of the Republic of Moldova and Slovenia, all Parties report that they give the public of a neighbouring Party a possibility to participate equivalent to that of their own public.

Q.24 Access to procedures of the public of a neighbouring Party

46. According to the reports, such an access is granted in Armenia, Austria, Croatia, Finland, Germany, Hungary, Kazakhstan, Norway, Sweden and Switzerland. The response to this question was missing from the reports from Bulgaria, the Russian Federation and Ukraine. Five countries (Czech Republic, Estonia, Republic of Moldova, Slovakia and Slovenia) reported that no access to relevant administrative and judicial procedures was granted to natural or legal persons of another Party.

47. The Working Group concluded that there was a need for information within UNECE on how public participation could be made to work.

Q.25 Information of the public in the event of an industrial accident

48. Most of the countries seem to have misunderstood the question and gave information either on the notification of authorities in the event of an industrial accident or on the provision of information to the public, though not in the event of an industrial accident.

49. The Working Group concluded that question Q.25 was misunderstood and did not elicit the information that was expected.

Section IX: Decision-making on Siting (Q.26 – Q.27)

Q.26-Q.27 Information on policies for siting

50. All countries but one (Armenia) stated that they had established policies on the siting of hazardous activities and on significant modifications to existing activities. The bases mentioned for these policies were laws on land-use planning, licensing procedures and environmental impact assessment, though in general no specifics were given. Two countries, Estonia and Switzerland, mentioned that difficulties were encountered in the practical implementation of land-use planning in relation to existing hazardous activities.

51. No country stated that bilateral cooperation to establish of policies on the siting of hazardous installations and on significant modifications to existing activities was taking place.

52. The Working Group was aware that the matter of decision-making on siting and land-use planning was a difficult one. It noted the lack of specificity in the answers, as well as the lack of bilateral cooperation. It furthermore took note of the fact that the European Union had a relevant programme that should be of interest to all UNECE member countries.

53. The Working Group concluded that ways should be found in the future to facilitate the participation of interested UNECE member countries in the land-use planning activities of the European Union.

Section X: Reporting on Past Industrial accidents (Q.28 – Q.29)

Q.28-Q.29 Information on past industrial accidents with transboundary effects

54. No industrial accidents with transboundary effects occurred, so no notification was necessary.

III. ASSESSMENT OF THE REPORTING PROCEDURE

55. The Working Group considered that the reporting procedure chosen by the Conference of the Parties at its first meeting in Brussels was adequate and should be used again for the next round of reporting.

56. The Working Group stressed that the report had to be seen and used as an important instrument for the further implementation of the Industrial Accidents Convention.

57. The Working Group stressed that the assessment of the implementation of the Convention should be based on information on how the provisions of the Convention were fulfilled in practice, because that was what mattered ultimately, in addition to information given in the reports on how the provisions were transposed in national legislation.

58. The Working Group noted that a number of questions were partly misunderstood and did not elicit the information that was expected. It concluded that the wording of these questions needed to be improved for the next period of reporting to make sure that the relevant practical information was obtained. Such amendments to the text of the reporting form should make it easier for the countries to complete it. They should not in any way extend the scope of the reporting format.

59. The Working Group also had the impression, based on some internal contradictions in some of the reports, that the different stakeholders had not always been sufficiently involved in the preparation of the reports. It stressed the importance of involving all stakeholders at national, regional and local levels in the preparation of the report, as these same people also had to work together towards the practical implementation of the Convention. The Working Group was under the impression that in some countries there was a need to improve the coordination between different authorities at the national, regional and local level.

60. The Working Group estimated that the quality of the reporting would enable it to assess the degree of the implementation of the Industrial Accidents Convention only to a very limited extent. It suggested that a workshop should be organized before the next round to improve the overall quality of the reporting.

61. The Working Group nevertheless concluded that an important first step had been taken and that the lessons learned from this should lead to better reporting next time.

IV. ASSESSMENT OF THE IMPLEMENTATION

62. As was to be expected, the implementation in countries with mature legislation on major hazards before the entry into force of the Industrial Accidents Convention such as EU member States, Switzerland, etc. seemed to be largely appropriate. Progress had been notable in some EU applicant countries such as the Czech Republic and Hungary, whereas other countries, in particular some of the newly independent States needed more support. The subregional workshop on the implementation of the Convention on the Transboundary Effects of Industrial Accidents to be held in Erevan (Armenia) on 13-15 March 2003 (see background paper for the workshop – CP.TEIA/2002/7) was of particular importance from this perspective and should be followed by other similar undertakings in the same and other subregions.

63. In particular, the identification of hazardous activities had been found by the Working Group to be a major problem in many countries. The identification of hazardous activities was of the utmost importance for the prevention of, preparedness for and response to industrial accidents with transboundary effect, that is, for the implementation of the Industrial Accidents Convention. The Working Group stressed that there was little hope of a satisfactory implementation of the Convention unless rapid and decisive progress was achieved in this field.

64. Decision-making on siting/land-use planning had also been found to fall short of the requirements of the Industrial Accidents Convention. However, this issue could be addressed only where hazardous activities were properly identified.

65. On the positive side, the Working Group had the impression that the infrastructure for emergency preparedness was in place. Again, however, the effectiveness of emergency preparedness depended critically on the hazardous activities being properly identified.