

**Decisions taken by the Working Group on Development
at its seventh meeting (Geneva, 12-14 April 2016) (not edited)**

The Working Group on Development took the following decisions:

Agenda item 2 – Amendment to the Convention

- Agreed on the draft amendment to the Convention (see Annex)
- Welcomed the proposal by the European Union and its member States to submit the text of the proposed amendment to the UNECE Executive Secretary in writing, for his circulation to all Parties at least 90 days in advance of the ninth meeting of the Conference of the Parties, and the invitation to other Parties to join them in this submission
- Agreed on the draft decision amending the Convention on the Transboundary Effects of Industrial Accidents to be presented to the Conference of the Parties at its ninth meeting

Art. 9 – Information to the public

- Thanked the small group of legal experts for having prepared proposals, extracting principles from articles 5 and 6 of the Aarhus Convention and improving the clarity of the legal text, which provided useful input to the debate
- Requested the secretariat to make sure that the Russian translation of the amendment to article 9 para. 2 uses the terms employed in annex VIII, para. 7, with regard to “actions” and “behaviour”, rather than the term “measures”

Art. 9 bis – Public consultation and participation in decision-making

- Recognized that several Parties indicated the added value of the text proposed by the small group of legal experts to article 9 bis, para. 1
- Agreed to delete the proposed text in square brackets in art. 9 bis para. 1, taking account of the concerns expressed by some Parties
- Decided not to include the text in square brackets in article 9 bis, para. 3
- Recalled the need to keep an appropriate balance between descriptive text and retaining flexibility for Parties in the implementation of the provisions of the Convention

Preamble

- Agreed not to add a reference to the Protocol on Strategic Environmental Assessment and the Aarhus Convention in paragraph 6 of the preamble

Related change in art. 26

- Agreed to amend para. 2 of art. 26, by deleting the word “annual” in the second sentence, in accordance with the previously agreed amendment of art. 18 to hold meetings of the Conference of the Parties biennially
- Requested the secretariat to include this change in the draft amendments

Agenda item 3 – Joint guidance and workshop on land-use planning, the siting of hazardous activities and related safety aspects

- Welcomed the holding of a workshop on land-use planning, the siting of hazardous activities and related safety aspects, organized in partnership with the Protocol on Strategic Environmental Assessment to the Espoo Convention and in cooperation with the UNECE Committee on Housing and Land Management and the EU/European Investment Bank
- Took note of the workshop conclusions

Agenda item 4 – Input from the Working Group to the Conference of the Parties

- Requested the secretariat to prepare the documentation containing the draft text amending the Convention for the Conference of the Parties at its ninth meeting

Annex Proposed amendment to the Convention on the Transboundary Effects of Industrial Accidents

A. Article 1

1. In article 1, paragraph (c) (i), replace “, flora and fauna” by “ and biodiversity”.
2. In article 1, paragraph (c), reverse the order of subparagraphs (iii) and (iv).
3. In article 1, new paragraph (c) (iv), replace “(i) and (ii)” by “(i), (ii) and (iii)”.
4. As a result of the above changes, article 1, paragraph (c), should read as follows:

(c) “Effects” means any direct or indirect, immediate or delayed adverse consequences caused by an industrial accident on, inter alia:

- (i) Human beings, ~~flora and fauna~~ **and biodiversity**;
- (ii) Soil, water, air and landscape;
- ~~(iv)~~**(iii)** Material assets and cultural heritage, including historical monuments;
- ~~(iii)~~**(iv)** The interaction between the factors in ~~(i) and (ii)~~**(i), (ii) and (iii)**.

5. In paragraph (j) after “persons”, insert: “and, in accordance with national legislation or practice, their associations, organizations or groups”.

6. As a result of the above change, article 1, paragraph (j), should read as follows:

(j) “The public” means one or more natural or legal persons **and, in accordance with national legislation or practice, their associations, organizations or groups.**

B. Article 4

7. Replace the heading of article 4 by a new heading reading: “Identification, notification, consultation and advice”.

C. Article 9

8. Replace the heading of article 9 by a new heading reading: “Information to the public”.

9. In article 9, paragraph 1, replace the first sentence by a new sentence reading: “The Parties concerned shall ensure that adequate information is given in a timely and effective manner to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity.”.

10. In article 9, paragraph 1, replace the second sentence by a new sentence reading:

This information shall:

(a) Be transmitted through such channels as the Parties deem appropriate;

(b) Include the elements contained in Annex VIII hereto;

(c) Take into account matters set out in Annex V, paragraph 2, subparagraphs (1) to (9);

(d) Without prejudice to Article 22 be easily accessible and preferably also be made available in electronic databases;

(e) Be periodically reviewed and updated as necessary.

11. In article 9, replace paragraphs 2 and 3 by a new paragraph reading:

2. In the event of an industrial accident or imminent threat thereof, the Parties concerned shall provide without delay, through their competent authorities, the information which gives the public in the areas capable of being affected the possibility to take necessary actions and behave as needed to prevent or mitigate harm arising from the industrial accident.

12. As a result of the above changes, article 9 should read as follows:

Article 9

Information to, ~~and participation of~~ the public

1. The Parties **concerned** shall ensure that adequate information is given **in a timely and effective manner** to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. This information shall:

(a) Be transmitted through such channels as the Parties deem appropriate;

(b) ~~shall~~ Include the elements contained in Annex VIII hereto;
~~and should~~

(c) Take into account matters set out in Annex V, paragraph 2, subparagraphs (1) to ~~(4) and (9)~~;

(d) **Without prejudice to Article 22 be easily accessible and preferably also be made available in electronic databases;**

(e) **Be periodically reviewed and updated as necessary.**

2. In the event of an industrial accident or imminent threat thereof, the Parties concerned shall provide without delay, through their competent authorities, the information which gives the public in the areas capable of being affected the possibility to take necessary actions and behave as needed to prevent or mitigate harm arising from the industrial accident.

13. After article 9, insert two new articles reading:

Article 9 bis

Public consultation and participation in decision-making

1. The Party of origin shall, in accordance with the provisions of this Convention, give the public in the areas capable of being affected an early, adequate and effective opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures.

2. The Parties shall ensure that consultation and participation as outlined in paragraph 1 takes place at least in decision-making procedures concerning:

(a) The development or significant modifications of measures taken for the prevention of industrial accidents to reduce the risk of industrial accidents in accordance with Article 6;

(b) Siting in accordance with Article 7, including decisions on significant modification to existing hazardous activities;

(c) The development or significant modification of off-site contingency plans referred to in Article 8, whenever possible and appropriate;

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 ensure that consultation and public participation procedures established under this Article provide that the public in the areas capable of being affected is given at least the information referred to in Article 9, paragraph 1.

Article 9 ter

Access to justice

The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide the public being or 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.

14. As a result of the above changes, articles 9 bis and 9 ter should read as follows, based on the current paragraphs 2 and 3 of article 9 of the Convention:

Article 9 bis

Public consultation and participation in decision-making

~~2.1.~~ 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 **early, adequate and effective** opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures.

2. The Parties shall ensure that consultation and participation as outlined in paragraph 1 takes place at least in decision-making procedures concerning:

(a) The development or significant modifications of measures taken for the prevention of industrial accidents to reduce the risk of industrial accidents in accordance with Article 6;

(b) Siting in accordance with Article 7, including decisions on significant modification to existing hazardous activities;

(c) The development or significant modification of off-site contingency plans referred to in Article 8, whenever possible and appropriate;

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 ensure that consultation and public participation procedures established under this Article provide that the public in the areas capable of being affected is given at least the information referred to in Article 9 paragraph 1.

Article 9 ter

Access to justice

3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide ~~natural or legal persons who are~~ **the public** 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.

D. Article 18

15. In article 18, paragraph 1, replace “a year” with “every two years”.

16. As a result of the above change, article 18, paragraph 1, should read as follows:

1. The representatives of the Parties shall constitute the Conference of the Parties of this Convention and hold their meetings on a regular basis. The first meeting of the Conference of the Parties shall be convened not later than one year after the date of the entry into force of this Convention. Thereafter, a meeting of the Conference of the Parties shall be held at least once ~~a year~~ **every two years** or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

E. Article 29

17. In article 29, paragraph 2, after “Article 27” insert: “ as well as any other State that is a Member of the United Nations and regional economic integration organizations constituted by sovereign States members of the United Nations”.

18. As a result of the above change, article 29, paragraph 2, should read as follows:

2. This Convention shall be open for accession by the States and organizations referred to in article 27 **as well as any other State that is a Member of the United Nations and regional economic integration organizations constituted by sovereign States members of the United Nations.**

19. In article 29, after paragraph 4, insert a new paragraph reading:

5. Any State or organization that ratifies, accepts or approves this Convention, failing an expression of a different intention by that State or organization, shall be considered:

(a) A Party to the Convention as amended by any amendment that has entered into force;

(b) To have ratified, accepted or approved any amendment to the Convention that has been adopted but has not yet entered into force.

20. As a result of the above change, article 29, paragraph 5, should read as follows:

5. Any State or organization that ratifies, accepts or approves this Convention, failing an expression of a different intention by that State or organization, shall be considered:

(a) **A Party to the Convention as amended by any amendment that has entered into force;**

(b) **To have ratified, accepted or approved any amendment to the Convention that has been adopted but has not yet entered into force.**

F. Related articles and annexes

1. Article 26

21. In article 26, paragraph 2, delete the word “annual” in the second sentence reading:

2. The Conference of the Parties shall discuss proposed amendments at its next ~~annual~~-meeting, provided that such proposals have been circulated to the Parties by the Executive Secretary of the Economic Commission for Europe at least ninety days in advance.

2. Annex VIII

22. In annex VIII, paragraph 5, after “environment” insert: “ and measures to address the industrial accident”.

23. In annex VIII, paragraph 9, after “accident” insert: “. This should include advice to cooperate with any instructions or requests from the emergency services”.

24. As a result of the above changes, annex VIII, paragraphs 5 and 9, should read as follows:

5. The general information relating to the nature of an industrial accident that could possibly occur in the hazardous activity, including its potential effects on the population and the environment **and measures to address the industrial accident;**

9. General information on the emergency services’ off-site contingency plan, drawn up to cope with any off-site effects, including the transboundary effects of an industrial accident. **This should include advice to cooperate with any instructions or requests from the emergency services;**
