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

Working Group on the Development of the Convention

Sixth meeting

Geneva, 30 November–2 December 2015

Item 4 (c) of the provisional agenda

**Guidance by the Conference of the Parties:
scope of mutual assistance**

Scope of mutual assistance in article 12 of the Convention

Note by the secretariat

Summary

At its eighth meeting (Geneva, 3–5 December 2014), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents requested the Working Group on the Development of the Convention to prepare a draft decision to clarify the scope of mutual assistance set out in article 12 of the Convention, outlining to what extent mutual assistance refers to any industrial accident or to industrial accidents with transboundary effects only, for review and possible adoption at the ninth meeting of the Conference of the Parties.

At its fifth meeting (Geneva, 11–13 May 2015), the Working Group held an initial discussion on the scope of mutual assistance and decided to revisit the issue at its sixth meeting, on the basis of the views exchanged by Parties (ECE/CP.TEIA/WG.1/2015/2, paras. 34–35) and with due regard to the analysis by the small group evaluating possible amendments to the Convention, which was active in the previous biennium.

The present document contains the outcomes of the analysis of the scope of mutual assistance undertaken by that small group. The Working Group will be invited to continue the exchange of views among Parties on the scope of mutual assistance and to agree on next steps for the preparation of guidance by the Conference of the Parties.



Introduction

1. At its seventh meeting (Stockholm, 14–16 November 2012), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents requested the Working Group on the Development of the Convention (Working Group on Development) to evaluate a list of provisions and issues with regard to a possible amendment of the Convention (ECE/CP.TEIA/24, paras. 66–67).
2. To support the Working Group’s deliberations in the biennium 2013–2014, the Bureau established, among others, a small group on the evaluation of other possible amendments to the Convention. The small group was comprised of experts from six Parties (France, Germany, Norway, Slovenia, Sweden and Switzerland) and one observer (the Joint Environment Unit of the United Nations Environment Programme and the United Nations Office for the Coordination of Humanitarian Affairs).
3. At its third and fourth meetings (Geneva, 3–4 September 2013 and 28–29 April 2014, respectively), the Working Group evaluated possible amendments to the Convention. This evaluation resulted in recommendations for both the amendment of certain articles of the Convention and the development of guidance by the Conference of the Parties, as laid out, along with the rationale, in an annex to the report of the fourth meeting of the Working Group (ECE/CP.TEIA/WG.1/2014/3, annex II).
4. With regard to the scope of mutual assistance, the Working Group on Development concluded that there was no need to amend article 12 of the Convention, as the present scope of mutual assistance could be clarified through guidance by the Conference of the Parties. On this basis, at its eighth meeting (Geneva, 3–5 December 2014) the Conference of the Parties requested the Working Group to prepare a draft decision to clarify the scope of mutual assistance set out in article 12 of the Convention, outlining to what extent mutual assistance refers to any industrial accident or to industrial accidents with transboundary effects only, for review and possible adoption at the ninth meeting of the Conference of the Parties.
5. At its fifth meeting (Geneva, 11–13 May 2015), the Working Group held an initial discussion on the scope of mutual assistance. Parties expressed differing views (ECE/CP.TEIA/WG.1/2015/2, paras. 34–35) and decided to revisit the issue at the Working Group’s sixth meeting, on the basis of the views exchanged by Parties at the fifth meeting and with due regard to the analysis by the small group evaluating possible amendments to the Convention, which was active in the previous biennium. The present document contains the outcomes of the analysis of the scope of mutual assistance undertaken by that small group.

I. Consideration by the small group evaluating the scope of mutual assistance in the biennium 2013–2014

6. In the biennium 2013–2014 the small group evaluated the possible amendment of article 12 on mutual assistance to clarify to what extent the provisions in that article refer to any industrial accident or those with transboundary effects only.
7. The small group observed that the text in article 12 refers to industrial accidents. According to article 1, subparagraph (a), of the Convention:

“Industrial accident” means an event resulting from an uncontrolled development in the course of any activity involving hazardous substances either:

- (i) In an installation, for example during manufacture, use, storage, handling, or disposal; or
- (ii) During transportation in so far as it is covered by paragraph 2 (d) of Article 2.

8. The small group also observed that there was no mention of transboundary effects in the definition of “industrial accident”. Such a reference can be found in the definition of “hazardous activity”, but this term is not referred to in article 12. Therefore, the definition of “industrial accident” employed in article 12 is not linked to the possibility of transboundary effects of such an accident. The small group thus concluded unanimously that the provisions in article 12 on mutual assistance apply to all industrial accidents, irrespective of whether they are capable of causing transboundary effects.

II. Next steps for preparing guidance by the Conference of the Parties

9. The Working Group will be invited to continue the exchange of views among Parties on the scope of mutual assistance and to agree on next steps for the preparation of guidance by the Conference of the Parties. The Working Group may wish to consider tasking the small group of legal experts, in cooperation with the secretariat, with the preparation of a draft decision for the Working Group’s review at its seventh meeting and possible adoption by the Conference of the Parties at its ninth meeting.
