

Economic Commission for Europe

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

Ninth meeting

Ljubljana, 28–30 November 2016

Item 7 (b) of the provisional agenda

Development of the Convention: amendment to the Convention

Informal presentation of the changes made by the proposed amendment 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 (Working Group on Development) to prepare a draft amendment to the Convention, for review and adoption at the ninth meeting of the Conference of the Parties (ECE/CP.TEIA/30, paras. 40–41).

The draft amendment elaborated by the Working Group on Development is contained in the draft decision on amending the Convention (see official document ECE/CP.TEIA/2016/7, annex). That document lists, in accordance with United Nations procedures, the proposed changes per article.

The present document presents the proposed amendments as changes to the current text of the Convention. New text is indicated in bold type, while text that has been deleted is shown in strike-through characters.

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

A. Article 1

1. As a result of the proposed 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)**.
2. As a result of the proposed changes, 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

3. As a result of the proposed change, the heading of article 4 should read as follows: “Identification, **notification**, consultation and advice”.

C. Article 9

4. As a result of the proposed 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~~ **Be** transmitted through such channels as the Parties deem appropriate;
- (b) ~~shall include~~ **Include** the elements contained in annex VIII hereto ~~and~~;
- (c) ~~should take~~ **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 that 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.

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 modification 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 modifications 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

5. As a result of the proposed 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 26

6. As a result of the proposed change, article 26, paragraph 2, should read as follows:
 2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall circulate it to all Parties. 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.

F. Article 29

7. As a result of the proposed changes, 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.**
8. As a result of the proposed changes, 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.**

G. Annex VIII

9. As a result of the proposed changes, annex VIII, paragraph 5, 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;**
10. As a result of the proposed changes, annex VIII, paragraph 9, should read as follows:
 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;**
