

Convention on the Transboundary Effects of Industrial Accidents

Ninth meeting of the Conference of the Parties
Ljubljana, 28–30 November 2016



REPUBLIC OF SLOVENIA
MINISTRY OF THE ENVIRONMENT
AND SPATIAL PLANNING



UNECE

Item 7 (a): Activities of the Working Group on the Development of the Convention

Activities in the biennium 2015–2016

Mr. Chris Dijkens, 29 November 2016

Chair of the Working Group on Development



UNECE

Mandate by the 8th Conference of the Parties (Geneva, 3–5 December 2014) (1/2)



1. Drafting of amendments

- Revised and additional definitions (art. 1)
- Strengthened public participation (art. 9)
- Clarified frequency of meetings (art. 18, para 1)
- Application of amendments to new Parties (art. 29)
- Changes to related provisions of and annexes to the Convention

2. Development of guidance

- Provisions related to land-use planning
- Clarifying the scope of mutual assistance
- Provisions on the review of compliance (in cooperation with the Working Group on Implementation)

→ CoP8 requested that the drafting of amendments should have priority over the development of guidance

Mandate by the 8th Conference of the Parties (Geneva, 3–5 December 2014) (2/2)



3. Consideration of opening

- Prepare draft text for opening the Convention to United Nations Member States beyond the UNECE region (art. 29) for CoP9
- Continue considering potential benefits and challenges, including possible budgetary implications, of opening the Convention
- Present the outcome of those considerations to CoP9



Activities of the Working Group on Development in 2015–2016



- **3 meetings of the Working Group on Development (WGD):**
 - WGD5 (Geneva, 11–13 May 2015)
 - WGD6 (Geneva, 30 November–2 December 2015)
 - WGD7 (Geneva, 12–14 April 2016)
- **Establishment of 2 small groups** to support the work of the WGD intersessionally through electronic consultations:
 - Small Group of Legal Experts
Mr. Erol Mertcan, United Kingdom, acted as rapporteur
 - Small Group of Experts on Land-use Planning
Mr. Michael Struckl, Austria, acted as rapporteur
- **Workshop on land-use planning (Geneva, 13 April 2016)**, with the Protocol on Strategic Environmental Assessment, UNECE Housing and Land Management and EU/European Investment Bank

Results of the Working Group's activities in the biennium 2015–2016



- **Successful negotiation of a draft amendment to the Convention**, agreed by the Working Group on Development in April 2016
 - See ECE/CP.TEIA/2016/7 and CP.TEIA/2016/INF.2
 - Participation of Parties, also from countries with economies in transition, and observers (e.g. non-Parties from UNECE region)
- **Development of guidance on land-use planning** (with partners)
 - Policy and legal guidance (ECE/MP.EIA/WG.2/2016/10-ECE/CP.TEIA/2016/8) and technical guidance (ECE/CP.TEIA/2016/9)
- Recommended **not to introduce a compliance mechanism** but to update the ToR of the Working Group on Implementation to support countries most effectively in their implementation of the Convention
- **No need to clarify the scope of mutual assistance**
- **Recommendation to open the Convention**
 - Discussion of potential budgetary implications at CoP9 (item 15)

Item 7(b): Amendment to the Convention

Mr. Chris Dijkens, 29 November 2016
Chair of the Working Group on Development



UNECE

Draft amendment to the Convention (1/3)

Proposed and agreed by the Working Group on Development

Revised and additional definitions (art. 1)

- Mandate: Improve clarity and legal certainty and align with other ECE Conventions
- Update of definition of “Effects” and “The public”



- **Art. 4** – Inclusion of “notification” in the heading to improve clarity

Strengthening public participation (art. 9)

- Mandate: Align more closely with the Aarhus Convention, keep compatibility with EU legislation, strengthen public participation
- Split into three articles:
 - Art. 9 – Public information
 - Art. 9 bis – Public participation
 - Art. 9 ter – Access to justice
- Strengthened provisions

Draft amendment to the Convention (2/3)

Proposed and agreed by the Working Group on Development

Clarified frequency of meetings (art. 18, para 1)

- Mandate: Align Convention text with the current practice
- Amendment made to reflect that meetings of the Conference of the Parties take place every 2 years (not annually)

Application of amendments to new Parties (art. 29)

- Mandate: Provide clarity and legal certainty of entry into force of amendments to new Parties
- New para. 5 included to clarify the entry into force of amendments to new Parties



- Opening of the Convention for accession by UN Member States and their regional economic integration organizations (para. 2)

Draft amendment to the Convention (3/3)

Proposed and agreed by the Working Group on Development

Related changes

- Art. 26 – No “annual” meetings of the Conference of the Parties (resulting from art. 18)
- Annex VIII – Strengthen public information (in line with art. 9)



Item 7. Amendment: guidance on mutual assistance

- Working Group on Development
 - agreed that the scope of mutual assistance applied only to accidents with potential transboundary effects
 - agreed to recommend to the Conference of the Parties that there was no need to clarify the scope of mutual assistance through a separate decision
 - considered that it would be sufficient to have its discussion on the topic reflected in the (Working Group's) session report

Item 7. Amendment: guidance on land-use planning, siting of hazardous activities and related safety aspects

- Working Group on Development
 - Established a Small Group of Experts on Land-use Planning
 - Hosted a workshop on land-use planning
 - Workshop served as a platform for participants to discuss the draft guidance that had drawn on, among others, information gathered through a survey
 - Workshop gave direction for further development of the draft guidance, for example:
 - On the legal and policy aspects, show how to integrate industrial safety considerations into SEA or EIA for land-use planning and/or siting and improve cooperation and consultation among land-use planners, environmental assessment experts and industrial safety specialists
 - On the technical aspects, recognize different methodologies in risk analysis, which can lead to different outcomes

Draft guidance on land-use planning, siting of hazardous activities and related safety aspects

- Guidance on policy, legal and procedural matters
 - support and clarification to public authorities and practitioners on requirements, interlinkages and application of the relevant UNECE instruments
- Technical guidance on land-use planning and siting of hazardous activities and related safety aspects
 - focuses on the risk aspects of hazardous facilities

Three key decision scenarios in first part

- Land-use plans, policies or programmes
 - including strategic environmental assessment
 - type and location of new developments, including transport routes and residential and public use areas, which, by virtue of being in the vicinity of a hazardous activity, may increase the risk or consequences of an industrial accident
- Plans to site potentially hazardous activities
 - including environmental impact assessment
- Permits that authorize activities or modifications of these activities on specific sites
 - including hazardous industrial activities

Interlinkages, synergies and complementarities between relevant legal instruments

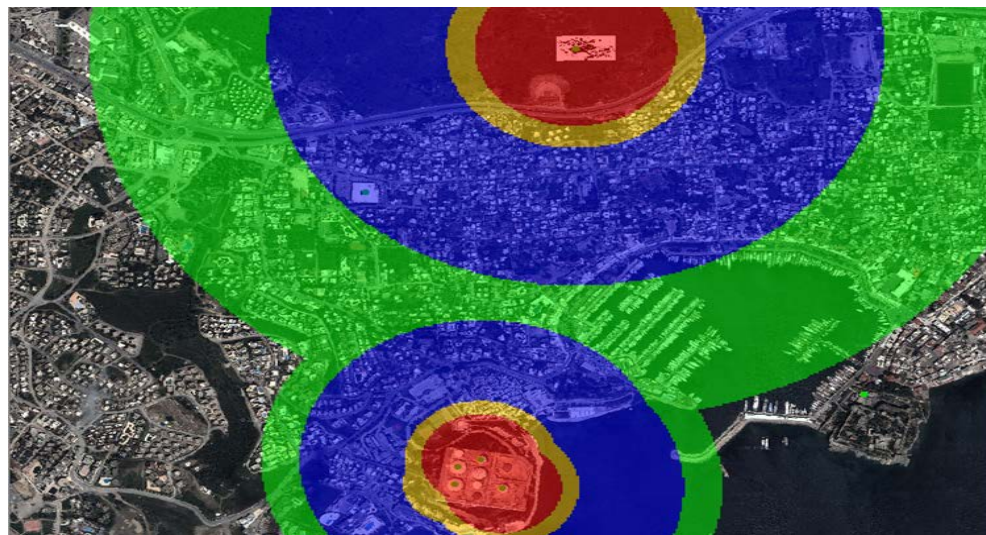
Follows impact assessment procedure

- Addressing hazardous activities
- Screening
- Scoping
- Environmental report
- Access to information, public participation and access to justice
- Transboundary procedure
- Decisions
- Monitoring

Experiences and good practices of member States based on survey findings

Limited by word count

- Bulgaria
- Belgium (Flanders Region)
- Portugal
- United Kingdom
- Estonia



Guidance on legal, procedural and administrative aspects

Opportunities for better coordination

- General obligations and approaches to their implementation
- Substantive obligations
- Procedural obligations
- Screening
- Scoping and the environmental report
- Flow of information



Focus of second, technical part

- Support implementation of Industrial Accidents Convention
- In relation to land-use planning, siting and related safety aspects of hazardous activities
- Focus on risk aspects of hazardous facilities
- Recognize much guidance already available, addressing siting and land-use planning
 - Safety Guidelines and Good Practices for Tailings Management Facilities
 - Safety Guidelines and Good Industry Practices for Oil Terminals
 - Safety Guidelines and Good Practices for Pipelines
 - Guidelines to Facilitate the Identification of Hazardous Activities for the Purposes of the Convention

Technical guidance on planning and risk assessment methods

- Introduction to land-use planning
- Land-use planning and risk assessment approaches, introduces
 - Deterministic approach
 - Consequence-based approach
 - Risk-based approach
 - Semi-quantitative (or semi-probabilistic) approach
- Key steps in land-use planning procedures
 - Considerations for off-site transport corridors



Recommended key steps in land-use planning procedures

1. Analysis of site and surrounding area
2. Review of relevant laws and legislation
3. Review of documentation about proposal or land use and hazardous risk sources
4. Select a planning approach or risk assessment method (*not prescriptive*)
5. Evaluate potential risks, effects and compatibility of hazardous activity
 - For areas that could be affected by industrial accidents of a transboundary nature
6. International cooperation and public participation
7. Decisions

Examples of planning approaches and technical risk assessments in member States

Some with experiences of major accidents

- Flanders Region of Belgium
- France
- Italy
- United Kingdom

Coordination with Protocol on Strategic Environmental Assessment



- 6th meeting of Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 7–10 November 2016) made suggestions
 - Mainly editorial and technical corrections, including by countries to their case studies and to descriptions of EIA/SEA procedures
 - Corrections to avoid legal interpretation and make clear the recommendatory nature of the guidance

Convention on the Transboundary Effects of Industrial Accidents

Ninth meeting of the Conference of the Parties
Ljubljana, 28–30 November 2016



REPUBLIC OF SLOVENIA
MINISTRY OF THE ENVIRONMENT
AND SPATIAL PLANNING



UNECE

Item 7. Amendment

• Guidance – draft decision

- Take note of the information provided by the secretariat on the making of comments on the guidance on land-use planning, the siting of hazardous activities and related safety aspects by the Working Group on EIA and SEA
- Take note of the guidance on land-use planning, the siting of hazardous activities and related safety aspects as presented
- Entrust the Bureau with its finalization on the basis of the points raised by this Conference of the Parties and the Working Group on EIA and SEA
- Request the secretariat to publish the guidance in print and electronic forms in the three official languages of UNECE, taking into account the relevant deliberations of the third session of the Meeting of the Parties to the Protocol on Strategic Environmental Assessment
- Invite UNECE member States and other interested United Nations Member States to use it

Convention on the Transboundary Effects of Industrial Accidents

Ninth meeting of the Conference of the Parties
Ljubljana, 28–30 November 2016



REPUBLIC OF SLOVENIA
MINISTRY OF THE ENVIRONMENT
AND SPATIAL PLANNING



UNECE