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Economic Commission for Europe**Conference of the Parties to the Convention on the
Transboundary Effects of Industrial Accidents****Thirteenth meeting**

Geneva, 27–29 November 2024

Item 13 of the provisional agenda

Mine tailings safety**Draft decision on the identification of tailings management
facilities as hazardous activities****Submitted by the Bureau, in cooperation with the Working Group on
Implementation and Joint Expert Group on Water and Industrial
Accidents, based on the work of the Small Group on Mine Tailings
Safety***Summary*

At its twelfth meeting (Geneva, 29 November–1 December 2022), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents (Convention) mandated the Joint Expert Group on Water and Industrial Accidents, in cooperation with the Working Group on Implementation and the Bureau, to assess in the following biennium, whether there was a need to revise and update the Guidelines to facilitate the identification of hazardous activities for the purposes of the Convention (ECE/CP.TEIA/2, annex IV, decision 2000/3) with its amendments in 2004 (ECE/CP.TEIA/12, annex II, decision 2004/2) and 2018 (ECE/CP.TEIA/38/Add.1, decision 2018/1), to cover more comprehensively the hazards and risks arising from tailings management facilities, and to share its findings in the form of an official document with the Conference of the Parties at its thirteenth meeting.^a

The Bureau's Small Group on Mine Tailings Safety, comprised of Bureau, Working Group and Joint Expert Group members, met at its first, second and third meetings (30 May 2023, 14 September 2023 and 7 May 2024, respectively) to develop the official document. The draft document was also presented to the Bureau at its fifty-third and fifty-fourth meetings (Helsinki, 11–12 October 2023, and Geneva, 13–14 June 2024, respectively), the Working Group at its forty-ninth meeting (Geneva, 31 January–1 February 2024) and the Joint Expert Group (Geneva (online), 2 June 2023, and Bratislava (hybrid), 24 April 2024), and opened for comments to these bodies. In preparing the official document with those contributions, the Group decided to also prepare the present draft decision as a foundation for the path forward, in line with the recommendation provided in the official document (ECE/CP.TEIA/2024/10), which the Bureau, Working Group and Joint Expert Group supported.



Parties are invited to share any comments on the draft decision with the secretariat at least four weeks in advance of the thirteenth meeting of the Conference of the Parties (via email to ece-teia.conv@un.org), that is to say, by 30 October 2024.

The Conference of the Parties is invited to adopt the decision.

^a ECE/CP.TEIA/44, para. 31.

The Conference of the Parties,

Recalling the obligation, under article 4 (1) of the Convention, for Parties of origin to, for the purpose of undertaking preventive measures and setting up preparedness measures, take measures, as appropriate, to identify hazardous activities within their jurisdictions and to ensure that affected Parties are notified of any such proposed or existing activity,

Recalling also that the identification and notification of hazardous activities shall comprise tailings management facilities¹ and these should be reported in national implementation reports, as agreed in decision 2020/1 on strengthening mine tailings safety in the United Nations Economic Commission for Europe (ECE) region and beyond² and concluded in various forums under the Convention,

Recalling further the action to apply the *ECE Safety Guidelines and Good Practices for Tailings Management Facilities*³ and the related Tailings Management Facility Methodology⁴ to identify, map and improve safe management of tailings management facilities, as recommended in the Road map for action to strengthen mine tailings safety within and beyond the ECE region,⁵

Concerned by the continued lack of data on tailings management facilities, including the numbers, locations, conditions, risks and natural hazard-triggered technological disaster (Natech) risks, especially with some of these increasing within the context of climate change, and possible transboundary effects, within the ECE region and beyond, which limits Parties and intergovernmental bodies in their ability to establish an evidence-based understanding of the scale of the problem of tailings management facilities and tailoring laws, policies and strategies to address risks and hotspots,

Concerned also by the challenges that many Parties to the Convention and countries of the Assistance and Cooperation Programme that committed to the implementation of the Convention through the High-level Commitment Meeting (Geneva, 14–15 December 2005)⁶ have shared regarding the identification of tailings management facilities as hazardous activities under the Convention due to the complex properties of tailings mixtures,

Emphasizing the unique risk profiles that different tailings mixtures and tailings management facilities have, in terms of their acidity, alkalinity and/or toxicity levels and their physical risks due to the large volumes of tailings sludge often stored in tailings management facilities, and alarmed that past accidents have led to fatalities, human health concerns, ecosystem damage, contamination of water and soil, harm to animal and plant life, destruction of property and costly pollution remediation efforts,

Conscious of the projected increases in demands for certain minerals and metals needed to produce technology for the energy transition and of the likelihood of this situation

¹ This refers to those mine tailings facilities that fall under the definition of a “hazardous activity” provided in art. 1 (b) of the Convention.

² ECE/CP.TEIA/42/Add.1.

³ United Nations publication, ECE/CP.TEIA/26. Available at <https://unece.org/environment-policy/publications/safety-guidelines-and-good-practices-tailings-management-facilities>.

⁴ See information at https://unece.org/environment-policy/industrial-accidents/online-toolkit-and-training-strengthening-mine-tailings#accordion_1.

⁵ ECE/CP.TEIA/2022/7.

⁶ CP.TEIA/2005/12.

leading to more mining processes and more tailings ponds in the ECE region and beyond⁷ and, in turn, increasing risks of industrial accidents in the future,

Stressing the importance of implementing the Convention's applicable provisions and applying general principles of international environmental law to tailings management facilities, particularly the precautionary principle when faced with scientific uncertainty regarding the hazards and risks,

Recognizing the synergies between the Convention and the United Nations Globally Harmonized System of Classification and Labelling of Chemicals and other international and regional instruments, particularly for policy and technical coherency in classifying hazardous substances and mixtures,

Acknowledging the Convention as an important instrument for addressing tailings management issues and the potential of applying the *ECE Safety Guidelines and Good Practices for Tailings Management Facilities* globally,⁸ as recognized within the context of the United Nations Environment Assembly of the United Nations Environment Programme,

1. *Endorses* the conclusions and recommendation provided in the document entitled *Assessment of the Guidelines to facilitate the identification of hazardous activities for the purposes of the Convention, in view of tailings management facilities*;⁹

2. *Requests* the Bureau, in cooperation with the Working Group on Implementation and the Joint Expert Group on Water and Industrial Accidents, to prepare an update of the Guidelines to facilitate the identification of hazardous activities for the purposes of the Convention¹⁰ for consideration by the Conference of the Parties at its fourteenth meeting, including by:

(a) Developing and adding a technical methodology for assessing tailings mixtures as closely as possible against the categories of hazardous substances and mixtures provided in annex I to the Convention, which should result in a simple and easy-to-use tool for Parties and other countries, as well as other stakeholders, and remain as close as possible to the United Nations Globally Harmonized System of Classification and Labelling of Chemicals and the criteria already elaborated under the Convention — e.g., the Tailings Hazard Index and the Tailings Risk Index under the Tailings Management Facilities Methodology — with respect to chemical hazards;

(b) Developing and integrating, on the basis of the precautionary principle, criteria for assessing alkalinity and acidity levels of tailings mixtures, in line with the United Nations Globally Harmonized System of Classification and Labelling of Chemicals, and for assessing the physical risks of tailings mixtures;

(c) Leaving the location criterion as it stands for now;

3. *Also requests* the Bureau, in developing the technical methodology and criteria defined in paragraph 2, to collect and take into account existing related guidelines, tools and criteria, including at the national — e.g., as reported in national implementation reports from the tenth round on implementation of the Convention — , regional — e.g., under European

⁷ See ECE/CP.TEIA/2024/2.

⁸ See United Nations Environment Programme (UNEP), *Environmental Aspects of Minerals and Metals Management: Implementing UNEA Resolution 5/12 – Co-Chairs' Summary Report of the Global Intergovernmental Meeting, 7–8 September 2023* (n.d.), available at www.greenpolicyplatform.org/sites/default/files/downloads/tools/Report-UNEA%20512%20Global%20Intergovernmental%20Meeting-V2.pdf; UNEP, *Knowledge Gaps in Relation to the Environmental Aspects of Tailings Management* (n.d.), available at www.greenpolicyplatform.org/sites/default/files/downloads/tools/Final%20Knowledge%20Gaps%20Report_Environmental%20Aspects%20of%20Tailings%20Management%20%28January%202024%29_1.pdf; and ECE/CP.TEIA/44, para. 31.

⁹ ECE/CP.TEIA/2024/10.

¹⁰ See Guidelines at https://unece.org/sites/default/files/2022-09/ENG_Guidelines_to_facilitate_the_identification_of_hazardous_activities_for_the_purposes_of_the_UNECE_Industrial_Accidents_Convention_Location_Criteria_.pdf, as amended by decision 2018/1 (ECE/CP.TEIA/38/Add.1).

Union law covering mining waste and industrial accidents — and international levels — e.g., methods developed under the Minamata Convention on Mercury — , and, as needed, to consult with and invite experts and operators within the ECE region and beyond to voluntarily contribute to the process;

4. *Further requests* the Bureau, in cooperation with the Working Group and the Joint Expert Group, to prepare a draft decision for the fourteenth meeting of the Conference of the Parties on:

(a) Adopting the updated Guidelines;

(b) Clarifying how the Convention applies to tailings management facilities, on the basis of the ECE *Safety Guidelines and Good Practices on Tailings Management Facilities*, decision 2020/1, the Road map and conclusions of intergovernmental meetings under the Convention;

(c) Consolidating key guidelines, tools and knowledge products available to support countries enhance mine tailings safety;

5. *Recommends* that Parties to the Convention contribute to the process defined in paragraphs 2–4, including by providing the Bureau with relevant technical and policy information and knowledge, sharing related guidelines, policies and good practices, participating in consultations and other means;

6. *Calls on* Parties to the Convention to make available financial and in-kind contributions to support this process over the biennium 2025–2026;

7. *Urges* Parties to the Convention to continue — without delay and in parallel to the process defined in paragraph 2 — to seek solutions to overcome challenges in the identification of tailings management facilities as hazardous activities, as a means to comply with their article 4 (1) obligation and to increase their efforts to strengthen tailings safety and prevent failures, including through the application of decision 2020/1, the ECE *Safety Guidelines and Good Practices for Tailings Management Facilities* and the related Methodology, as well as the Road map for action to strengthen mine tailings safety within and beyond the ECE region.
