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ECONOMIC COMMISSION FOR EUROPE

CONFERENCE OF THE PARTIES
TO THE CONVENTION ON THE TRANSBOUNDARY
EFFECTS OF INDUSTRIAL ACCIDENTS

**ASSISTANCE PROGRAMME FOR THE COUNTRIES OF EASTERN EUROPE,
CAUCASUS AND CENTRAL ASIA AND SOUTH-EASTERN EUROPE TO ENHANCE
THEIR EFFORTS IN IMPLEMENTING THE CONVENTION**

Report of the fact-finding team on its mission to Kyrgyzstan

Summary

The fact-finding team, as a result of its mission to Kyrgyzstan on 12–14 September 2006, has concluded that 7 out of 10 basic tasks under the Convention – as described in the assistance programme – have been implemented. Unimplemented tasks include the nomination of competent authorities for the implementation of the Convention, designation of an authority responsible for notification of hazardous activities to neighbouring countries, and implementation of the UNECE Industrial Accidents Notification System at the national level. The team recommends that the Kyrgyz authorities take the necessary steps to implement the three tasks as soon as possible. Once the tasks have been implemented, the country should participate actively in the next phase of the assistance programme.

I. INTRODUCTION

1. The fact-finding missions are being organized to those countries of Eastern Europe, Caucasus and Central Asia (EECCA) and South-Eastern Europe (SEE) which adopted the declaration at the High-level Commitment Meeting¹ (Geneva, 14–15 December 2005) and committed themselves to implementing the Convention, in particular the basic tasks as defined in the assistance programme (chapter IV, first paragraphs of sections A–J²).

2. In accordance with the assistance programme and the terms of reference,³ the fact-finding teams' task is to hold discussions with representatives of competent authorities at the national and local levels, of points of contact and of hazardous activities, and to compile a report on:

- the implementation of the basic tasks; and
- the particular areas for which capacity-building activities and advisory services are needed, as well as the possibilities and needs for launching transboundary pilot projects and joint exercises with neighbouring EECCA and SEE countries.

3. This document contains the report on the fact-finding mission to Kyrgyzstan, which took place on 12–14 September 2006 at the invitation of the State Agency for Environmental Protection and Forestry.

A. Basic information on the mission

4. The fact-finding team consisted of:

- Mr. Bruno Frattini (team leader), adviser to the Italian Ministry of Environment and Territory
- Mr. Massimo Cozzone, senior officer of the Italian Ministry of Environment and Territory
- Mr. Victor Novikov, UNEP/GRID-Arendal, environmental expert

5. The programme for the mission was drawn up jointly by the mission coordinator, Mr. Kubanychbek Noruzbayev (tel. +998 312 610 016) from the State Agency for Environmental Protection and Forestry, and the Convention secretariat. It included meetings with the following authorities and industrial entity:

- State Agency for Environmental Protection and Forestry (SAEPF)

¹ Report of the High-level Commitment Meeting, Geneva, 14–15 December 2005 (CP.TEIA/2005/12).

² Internationally Supported Assistance Programme for the East European, Caucasian and Central Asian and the South-East European Countries to Enhance Their Efforts in Implementing the Convention (CP.TEIA/2004/2).

³ Terms of reference for fact-finding teams established in the framework of the assistance programme under the UNECE Convention on the Transboundary Effects of Industrial Accidents.

- Ministry for Emergency Situations (MES)
- Administration of Bishkek City (local authority)⁴
- Gazprom Neft Asia (oil distributor)

6. The names and titles of the individuals who represented these entities at the meetings are shown in the following table. Mr. Noruzbayev accompanied the team to most of the meetings.

State Agency for Environmental Protection and Forestry	
Mr. Arstan Davletkediev	Director
Mr. Kubanychbek Noruzbayev	Head of Programme Implementation, Radioecological Safety
Ms. Gulfia Rashidova	Chief of the State Ecological Inspectorate
Ms. Taisia Neronova	Chief of the Information Department
Ministry for Emergency Situations	
Mr. Turarbek Sarkulov	Director of the State Inspectorate for Industrial Safety Supervision
Mr. Aman Mahmutov	Chief of the Department of Industrial Safety Supervision
Mr. Kanat Ermatov	Vice Chief of Industrial Safety Department
Mr. Ivan Porshenko	Expert, Industrial Safety Department
Mr. Taalajbek Temiraliyev	Chief of the International Relations and Investments Department
Mr. Erlan Djusupov	Chief of the Investment Department
Ms. Kasiet Irgebaeva	Expert, International Relations and Investments Department
Gazprom Neft Asia	
Mr. Murat Sulajmanov	Vice-General Director
Mr. Azat Ishenov	Chief of the Marketing Department
Mr. Viatcheslav Gabak	Chief of the Technical Department
Mr. Rysman Dujshenbiev	Storage Director
Mr. Medet Kalilov	Chief of the Refueling Station

B. Basic information on the country

7. Kyrgyzstan is a land-locked country in Central Asia with an area of 198,500 km² and a population of 5.2 million inhabitants. It declared its independence from the Soviet Union in 1991.

8. The Kyrgyz economy was severely affected by the collapse of the Soviet Union and the resulting loss of its vast market. In 1990, some 98% of Kyrgyz exports went to other parts of the

⁴ The meeting with the Administration of Bishkek City was cancelled owing to the reported unavailability of the designated representative.

Soviet Union. Nevertheless, since 1998, thanks to government commitment to reforms, economic performance has been improving.

9. Agricultural processing is a key component of the industrial economy, as well as one of the most attractive sectors for foreign investment. Kyrgyzstan is rich in mineral resources: it has substantial deposits of coal, gold, uranium, antimony and other rare-earth metals. Metallurgy is an important industry, and the government hopes to attract foreign investment in this field. The government has actively encouraged foreign involvement in gold extraction and processing. The country's plentiful water resources and mountainous terrain enable it to produce and export large quantities of hydroelectric energy.

10. Kyrgyzstan is not a Party to the Convention, but its representatives participate in meetings under the Convention. They attended the three Conferences of the Parties and the Subregional Workshop on the Implementation of the Convention, held in March 2003 in Yerevan.

II. REVIEW OF THE IMPLEMENTATION OF THE BASIC TASKS UNDER THE CONVENTION

A. Availability of the Convention and other documentation in the national languages

11. The Convention and other vital documents are made available by the competent authorities in Russian, which is the second most commonly used language in Kyrgyzstan (after Kyrgyz). They are not available in Kyrgyz.

B. The Convention and the national legal framework

12. Although Kyrgyzstan has not yet acceded to the Convention, it has enacted a number of laws concerning the prevention of, preparedness for and response to industrial accidents, including the following:

- Law of Kyrgyz Republic of November 2001 "Industrial Safety of Hazardous Production Facilities" and Law of Kyrgyz Republic of March 1997 "Licensing and Identifying Hazardous Activities"
- Law of Kyrgyz Republic of June 1999 "Environment Protection" regulating environmental impact assessment standards and environmental protection in Kyrgyzstan
- Law of Kyrgyz Republic of March 1997 "Licensing" regulating procedures for issuing licences, authorizations and permits
- Law of Kyrgyz Republic of January 2000 "Civil Defense" regulating environmental protection and health prevention reference standards in case of industrial accidents
- Law of Kyrgyz Republic of May 2004 "Foundation of Technical Regulation in

Kyrgyz Republic” regulating compliance with mandatory requirements

- Law of Kyrgyz Republic of February 2000 “Protection of Population and Territories against Emergency Situations of Natural and Anthropogenic Origin” regulating response to emergencies and population preparedness and establishing a system of notification about emergency situations

13. Particularly relevant to the purposes of the Convention are the national laws on “Industrial Safety of Hazardous Production Facilities” and “Protection of Population and Territories against Emergency Situations of Natural and Anthropogenic Origin”. Overall, the country has 150 regulations, norms and standards concerning industrial safety.

14. Provisions of the Convention are partly covered by the existing legal framework. Full transposition (once the Convention is ratified) will require additional legislation in the following areas:

- Identification of hazardous installations according to the Convention’s criteria and their notification to neighbouring countries
- Prevention measures and decision-making regarding the siting of hazardous activities
- Provision of information to and participation of the public
- Transboundary emergency response and mutual assistance
- Responsibility and liability

15. The authorities responsible for enforcing national industrial safety legislation are MES and SAEPF.

C. Competent authorities

16. Two institutions are dealing with tasks under the Convention in Kyrgyzstan. The MES controls and monitors the safe performance of industrial activities and is also responsible for emergency preparedness and response. The SAEPF is mainly responsible for protection of the environment from the impacts of industrial activities.

17. The team found that currently there is little coordination between these two institutions in the area of industrial safety, except for radioecological safety. Moreover, because of ongoing institutional reforms, responsibilities and roles in implementing the Convention have not been clearly defined.

18. The MES⁵ national head office (118 employees) coordinates three regional departments: northern, southern and eastern (altogether 100 employees). Under these are oblast departments and finally rayon departments, where the majority of human resources are located.

19. The SAEPF⁶ national head office (100 employees) coordinates seven regional departments, which in turn oversee local offices. The regional and local departments are responsible for inspection of industrial establishments and for environmental monitoring.

D. Identification of hazardous activities

20. The MES's industrial safety and mining inspectorate maintains an inventory of hazardous activities and of dangerous substances stored, transported and handled by major economic entities. The database is partly supported by a geographic information system (a MapInfo database).

21. The inventory maintains a list in Russian of over 2,500 hazardous activities, including various entities posing risks to human health and the environment. The list was drawn up based on the criteria for classification in accordance with article 3 of Kyrgyz Law No. 93 of 19 November 2001, "Industrial Safety of Hazardous Production Facilities".

E. Notification of hazardous activities to neighbouring countries

22. To date, there has been no formal decision as to which of the authorities will be responsible for cooperation with neighbouring countries and for notifying hazardous activities.

23. The Parliament of Kyrgyzstan has already ratified the Agreement on Cooperation in the Field of Industrial Safety at Hazardous Production Facilities, which was signed by the countries of the then-Commonwealth of Independent States in Moscow on 28 September 2001. The Signatories have agreed to continuously exchange information and data on the circumstances, causes and consequences of accidents at hazardous production facilities. They have also agreed to exchange analytical and statistical data on various aspects of industrial safety. An Interstate Council on Industrial Safety was set up to implement the agreement.

F Preventive measures

24. The MES is responsible for technical regulations, terms of reference, criteria and national standards for occupational health and industrial safety. Specialized bodies of the MES inspect hazardous activities, provide guidance to operators, and issue relevant authorizations. The MES is also responsible for remediation of the hazardous industrial legacy of the past, such as poorly maintained uranium and toxic waste tailings created by mining activities. The scope of remediation depends on the availability of funding and on resource mobilization. The SAEPF deals with prevention and minimization of environmental pollution caused by industrial

5 The MES has a total of about 5,000 employees, including those performing internal military roles. The recently formed Fire Protection Department has some 1,500 employees, including 164 fire inspectors.

6 The SAEPF has a total of about 3,500 employees, 3,000 of whom are employed in the forestry sector.

installations. It conducts environmental impact assessments and environmental expertise of industrial projects, as well as inspections of pollutant release by hazardous industries into the environment through air, water and disposal of industrial waste.

25. The personnel available for the management of industrial hazards prevention in the MES, which includes an inspectorate, consists of about 38 people at the central level. In executing their duties they are supported by other MES officials. In the SAEPF, the personnel available for environmental protection in the industrial field consist of about 10 people.

26. The team determined that the number of available employees in the two institutions is not sufficient to ensure an appropriate level of safety. To work effectively, the employees also require training, which is not currently available.

G. Point(s) of contact for industrial accident notification and mutual assistance

27. The Department for Civil Defence (DCD) in the MES was designated as the point of contact for accident notification and mutual assistance under the Convention. The personnel in charge is trained according to MES procedures.

H. Industrial accident notification system

28. The team established that the personnel of the DCD, which serves as a point of contact for notification in case of accidents, was not aware of the UNECE Industrial Accident Notification (IAN) System. The DCD operates its own system for notification of natural and technical disasters at the national, regional and local levels.

I. Emergency preparedness and response and mutual assistance

29. According to the Law on Industrial Safety of Hazardous Production Facilities, operators of industrial establishments dealing with hazardous and/or radioactive substances are obliged to have on-site contingency plans.

30. Local MES officers conduct inspections of emergency preparedness at industrial sites. Such inspections include verification of staff knowledge of emergency preparedness procedures and verification of the existence and readiness of emergency equipment and fire-fighting systems. In addition to inspections, the MES organizes training and exercises at industrial sites.

31. The MES, jointly with the administrations of districts where major hazardous industries and installations are located, is also responsible for designing and implementing off-site contingency plans, including training the population and testing emergency response and coordination mechanisms.

32. Mutual assistance in transboundary emergencies can be provided in accordance with several multilateral and bilateral agreements which Kyrgyzstan has signed with neighbouring countries and other countries of EECCA. These agreements cover the prevention of natural and

technical disasters, training and emergency management, notification and assistance, and joint exercises.

J. Information to and participation of the public

33. While Kyrgyzstan has ratified the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, its provisions regarding public participation in decision-making on environmental issues and public access to environmental data are not yet fully transposed into the national legislation.

34. The current legislation requires that authorities inform the public in case of an emergency, and it specifies that the public has the right to be informed about the possible effects of accidents.

35. Areas regarding the provision of information and facilitation of the participation of the publics of neighbouring countries remain to be developed.

III. CONCLUSIONS ON THE IMPLEMENTATION OF THE BASIC TASKS

36. After carefully examining the institutional and legal frameworks for prevention of, preparedness for and response to industrial accidents in Kyrgyzstan, the team has concluded that three basic tasks remain unimplemented. These are the designation of a competent authority for the implementation of the Convention, the designation of an authority responsible for notification of hazardous activities to neighbouring countries, and the implementation of the UNECE IAN System at the national level.

37. The team recommended that the Kyrgyz authorities take the necessary steps to implement the three tasks as soon as possible. They should decide on the roles and responsibilities of the institutions which serve as competent authorities for the implementation of the Convention, including their roles in notifying hazardous activities to neighbouring countries. They should also ensure that the personnel of the point of contact knows the procedures under the UNECE IAN System so that it can use the system for transboundary notification in case of accidents as well as react appropriately in tests of the system. The point of contact should express its readiness to participate in future tests of the system and should provide updated contact information to the Convention secretariat.

38. It is recommended that Kyrgyzstan, once it has implemented the above tasks, participate actively in the implementation phase of the assistance programme.

39. The team would like to thank the representatives of the relevant authorities and hazardous activities for the friendly reception in Kyrgyzstan and for their cooperative approach in the discussions. The team especially appreciated the work done by the mission coordinator, Mr. Noruzbayev, to organize the mission.

IV. NEEDS FOR FURTHER ASSISTANCE

40. The representatives of the SAEPF did not have any specific requests for further assistance. They told the team that, before any implementation process began, a general programme for reconstruction of the industrial sector aiming at development in compliance with environmental and safety standards should be developed in Kyrgyzstan. They expressed strong interest in the implementation of the Convention provided this occurred in coordination with neighbouring countries.

41. The representatives of the MES informed the team that they were very interested in enhancing the implementation of the Convention and would seek assistance in this respect.

The Convention and the national legal framework

42. The team sees a need to further improve the legislative framework and therefore recommends that the country will be provided legal advisory services for assessing existing legislation and identifying gaps and inconsistencies with regard to the Convention. The national authorities could be provided with information about good practices and guidelines for enforcement and allocation of tasks to different authorities.

Competent authorities

43. There is a need for capacity-building regarding the roles and responsibilities of the authorities. Moreover, authorities should be familiarized with good practices for cooperating effectively at the national level and between the national, regional and local levels as well as with industry.

Identification of hazardous activities

44. The representatives of the MES expressed their interest in training in identification of hazardous activities according to annex I and the location criteria under the Convention.

Notification of hazardous activities to neighbouring countries

45. The team sees a need to share with competent authorities good practices for cooperating with neighbouring countries, with a focus on exchange of information on hazardous activities at different levels.

Preventive measures

46. Representatives of the MES requested assistance in risk assessment and management at hazardous activities. They are also interested in drawing up and implementing preventive measures.

Point(s) of contact for the purpose of industrial accident notification and mutual assistance

47. The personnel of the point of contact in the UNECE IAN System require further training.

Industrial accident notification system

48. In line with other needs, according to the team and following previous experiences in the region, advice and best practices are needed to achieve effective functioning of industrial accident notification systems at the regional and local levels and to link them to the UNECE IAN System.

Emergency preparedness and response and mutual assistance

49. The representatives of MES expressed a strong interest in technical advice on drawing up external emergency plans. They also seek assistance in training personnel who could support operators in drawing up on-site contingency plans.

50. A pilot project on developing an on-site contingency plan for a selected hazardous facility and an off-site plan for the surrounding region could help the MES to improve contingency planning in the country. The pilot project could continue with a response exercise during which the plan is tested. If such a project is approved, the team recommends selecting a hazardous facility located in the border area so that aspects of cross-border cooperation, including compatibility between off-site plans in two countries, can be taken into account.

Information to and participation of the public

51. According to the team and in line with previous experience in the region, the competent authorities should be provided with best practices and information on how to involve the public in the prevention of, preparedness for and response to industrial accidents.