

ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE
CONVENTION ON THE PROTECTION
AND USE OF TRANSBOUNDARY
WATERCOURSES AND
INTERNATIONAL LAKES**

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

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**PROPOSAL ON HOW TO TREAT THE ISSUE OF
PIPELINES IN THE PROTOCOL**

Prepared by the secretariat in consultation with Mr. M. Schiess, Co-Chairman of the
joint ad hoc expert group on water and industrial accidents

1. At its fifth meeting, the Working Group on Civil Liability discussed whether transportation of hazardous substances, according to annex I of the draft Protocol, should be considered as a hazardous activity under the Protocol. The outcome of this discussion was, in principle, a consensus among delegations that indeed pipelines should be covered, although for the time being, brackets around the words “transportation via pipelines” in article 2 paragraph (h) (ii) were maintained.
2. The reason for maintaining the brackets was the issue whether all pipelines, which transport hazardous substances according to annex I and are capable of causing damage in the event of an accident with transboundary effects on transboundary waters, shall be covered.

3. Hazardous activities are defined in the Protocol by three criteria: (i) hazardous substances according to annex I; (ii) their threshold quantities, and (iii) capability of causing damage due to an industrial accident with transboundary effects on transboundary waters:

- In the case of pipelines, the first and third criteria are already well defined: a pipeline transporting hazardous substances according to annex I and capable of causing damage due to an accident with transboundary effects on transboundary waters, would be covered by the Protocol;
- The issue to be resolved is linked to the second criterion – the threshold quantities of the hazardous substances present in the pipeline. To this end, several technical factors are to be considered, among them: the length of the pipeline or its section; the diameter of the pipeline, and the pressure in the pipeline. These and other factors can constitute additional criteria qualifying a given pipeline to be covered by the Protocol. The definition of these factors requires additional, highly specialized work, which cannot be concluded in a short time.

4. Therefore, in view of the secretariat, there are two alternative solutions to resolve the pending issue:

Alternative 1

- Delete the brackets around the words “transportation via pipelines” in article 2, paragraph (h) (ii).

This solution would imply that all pipelines transporting hazardous substances, according to annex I and capable of causing damage due to an accident with transboundary effects on transboundary waters would be covered by the Protocol.

Alternative 2

- Delete the brackets around the words “transportation via pipelines” in article 2, paragraph (h) (ii), and insert the following wording as a new subparagraph 4 (b)bis in article 18 (Meeting of the Parties): “to adopt guidelines and criteria to facilitate the identification of pipelines as hazardous activities for the purposes of this Protocol at its first meeting.”

This solution would imply that only certain pipelines transporting hazardous substances according to draft annex I and additionally defined by a set of guidelines and criteria would be covered by the Protocol.

Additional guidelines and criteria would be drawn up by a specialized expert group, established under the auspices of both the Meeting of the Parties to the Water Convention and the Conference of the Parties to the

Industrial Accidents Convention. They would then be submitted to the first Meeting of the Parties to the Protocol for their adoption.¹

¹ The Signatories to the Industrial Accidents Convention followed a similar approach and gave a task to the Conference of the Parties to adopt guidelines and criteria to facilitate the identification of hazardous activities for the purposes of the Convention.