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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 Georgia

Summary

The fact-finding team, as a result of its mission to Georgia on 29 August – 1 September 2006, has concluded that the legal framework for complying with the basic tasks under the Convention – as described in the assistance programme – is available, but that its implementation and enforcement are weak. The implementation of tasks regarding identification of hazardous activities and notification of these to neighbouring countries needs further strengthening. The team therefore recommends that Georgia take steps to further strengthen the implementation of those tasks. Once this is done, the country should be assisted within the 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 (in Geneva on 14–15 December 2005) and committed 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 industry, 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 of the fact-finding mission to Georgia, which took place on 29 August – 1 September 2006 at the invitation of the Ministry of Environmental Protection and natural Resources

A. Basic information on the mission

4. The fact-finding team consisted of:

- Mr. Cornelius van Kuijen (team leader), former Inspector for the Environment, former Director for External Safety and Chemical Substances in the Ministry of Environment of the Netherlands, and a participant in the drafting and implementation of the Convention and the EU Seveso II Directive

- Ms. Hanna Mäkinen, Programme Officer in the International Department of the Swedish Rescue Services Agency, former official of the Supervision Department, and a participant in the supervision guidance of the Seveso II Directive

- Mr. Tomas Trcka, Senior Officer in the Environment Risk Management Department of the Ministry of Environment of Slovakia

5. The programme for the mission was drawn up jointly by the mission coordinator, Ms. Irma Gurguliani (tel. +995 32 275723) from Georgia's Ministry of Environmental Protection and

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.

Natural Resources, and the Convention secretariat. It included meetings with the following authorities and industrial entity.

- The Ministry of Environmental Protection and Natural Resources (MEPNR) is the key agency in charge of environmental policy implementation, including the licensing of major hazard installations. It consists of a central office, 15 regional departments (including 12 in the major cities), an inspectorate and several scientific institutes.

- The Regional Environmental Office of Kvemo Kartli is one of the 15 regional environmental bodies which are the main units for implementing environmental legislation. They are directly subordinated to MEPNR. The regional bodies also carry out control, monitoring and inspection duties connected with the implementation by enterprises of legal requirements regarding air and water protection. This office controls about 100 establishments in a heavily industrialized area like the Rustavi region.

- The Civil Safety Department, which falls under the Ministry of Internal Affairs, is responsible for national-level coordination of emergency preparedness and response measures.

- The joint stock company Madneuli extracts copper from ore via a washing process. While this process cannot in itself cause an accident that might harm the surrounding area, it includes a closed water circuit and a tailing dam holding 20.8 million tons of water containing high concentrations of heavy metals. Breakage of the dam would result in heavy contamination of the Kura River, which crosses the nearby border with Azerbaijan on its course to the Caspian Sea.

6. The names and titles of the individuals who represented these entities at the meetings are shown in the following table. Ms. Gurguliani accompanied the team to all the meetings.

Ministry of Environmental Protection and Natural Resources	
Mr. Zaal Lomtadze	Deputy Minister
Mr. Zviad Cheisvili	Head of the Sustainable Development Department
Ms. Marina Makarova	Head of the Water Protection Division
Ms. Nino Sharashidze	Deputy Head of the International Relations and Conventions Department
Regional Environmental Office of Kvemo Kartli	
Mr. Zurab Pertenava	Head
Ms. Ketevan Mirotadze	Main Specialist
Mr. Ludvig Oganian	Main Specialist
Department of Emergency Situation Management	
Mr. Levan Buiglishvili	Deputy Head of the Department
Mr. Shalva Shublades	Main Specialist in the International Relations Department
Mr. Jorjik Tabatadze	Head of the Biological, Nuclear and Chemical Division
Mr. Iliia Khurtsidze	Head of the Central Rescue Service
Madneuli	
Mr. Thamaz Karalashvili	Environmental Service Officer

Mr. Solomon Tsabadze	Environmental Coordinator
Mr. Zaza Jjeishvilli	Head Industrial Safety Department

B. Basic information on the country

7. Georgia has a surface area of about 70,000 km² and a population of about 5 million. It has 310 km of Black Sea coastline and is bounded by four other countries: the Russian Federation to the north (border length 723 km), Turkey to the south-west (border 252 km), Armenia to the south (164 km) and Azerbaijan to the south-east (322 km). Because of the geography of the country and the location of its industrial activities, only the proximity to Armenia and Azerbaijan is relevant from the viewpoint of transboundary industrial accidents.

8. Georgia suffered severe political and economic turbulence during the years after the re-establishment of its independence in 1991. However, since 2000, the country's economic performance has slowly improved; gross domestic product (GDP) growth in 2004 was about 6%. Inflation is low and stable. Key sectors of economy activity include energy, agriculture, trade, tourism and transport, and significant projects in the food-processing and telecommunication industries.

9. To address its many environmental problems, Georgia has made major efforts to develop a suitable body of environmental planning documents and environmental legislation. This contains clear environmental priorities and the legally established task of developing a strategy for sustainable development. However, these efforts have produced few results. Therefore, since the recent change in government, the country's environmental policy has focused more on step-by-step implementation of practical goals.

10. Georgia is not a signatory to the Convention, and its Government has not taken a formal decision to become a Party, mainly because the country has not been able to comply with the requirements of the Convention.

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

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

11. The text of the Convention has been translated into Georgian. Once the website of the MEPNR is ready (as it is expected to be in early 2007), the text will be made available to competent authorities at the national, regional and local levels as well as to other stakeholders. The website will be used to publish information and guidance material on the prevention of industrial accidents in general and on the implementation of the Convention.

B. The Convention and the national legal framework

12. The Law on Environmental Protection, adopted in 1996, establishes the general framework for environmental protection. It covers a wide range of issues, including environmental standard setting, environmental licensing and permitting, monitoring, and

maintenance of state registers of environmental information. The Law also outlines general environmental requirements for the production of goods and provides for an obligation to insure against environmental risks. The framework rules are further developed in specific laws and government regulations, such as the following:

- Law on Dangerous Chemical Agents
- Law on the Safety of Hazardous Production Facilities
- Law on Hazardous Chemical Substances
- Law on Environmental Permits
- Law on State Environmental Control
- Law on Licenses and Permits

13. Even though a regulatory structure appears to be in place for implementing a policy for preventing industrial accidents, concern over the effectiveness of this policy seems justified, mainly because implementation and enforcement of the regulations are weak. The MEPNR is aware of this and has proposed that the Government establish a new integrated environmental enforcement agency, the Inspectorate for Environmental Protection. The law in question – the Law on State Environmental Control – was promulgated in July 2005 and is in force. The Inspectorate began operations in September 2005. A project to support the start-up phase of the Inspectorate is being implemented with funding from Norway and the Netherlands.

C. Competent authorities

14. The MEPNR is in charge of preparations for the acceding procedure. The Ministry sees it as a high priority that Georgia become a Party to the Convention in the near future. A representative from the MEPNR has been participating actively in the Convention's activities since 2004.

D. Identification of hazardous activities

15. The Law on Environmental Permits offers a legal basis for the identification of major hazard installations. It provides for facilities to be identified according to their environmental impact. However, the available information is not systematically collected in a central database on hazardous facilities.

16. Creating this database will be a priority task of the new Inspectorate for Environmental Protection. An inventory of hazardous installations and of the establishments covered by the Convention will be set up during the second half of 2007.

E. Notification of hazardous activities to neighbouring countries

17. Notification to neighbouring countries of activities considered hazardous in the context of the Convention has not occurred. According to the Law on Hazardous Chemical Substances, when there is an industrial accident involving hazardous chemicals, the MEPNR must notify neighbouring countries that could be affected. However, there has been no implementation of this obligation.

18. The work programme of the new Inspectorate contains the activity “Coordination with the neighbouring countries on scopes and periodicity of inspections of sites having transboundary effects”, to be implemented in 2008.

F. Preventive measures

19. According to the Law on Environmental Protection, there is a combined system of licences and permits. The licences are issued at the discretion of the MEPNR. Environmental permits, which may be given only after an environmental licence has been issued, are also under the sole responsibility of the MEPNR. The 1996 Law on Environmental Permits outlines the permitting procedure. The applicant has to submit to the MEPNR a feasibility study and an environmental impact assessment for the project, and must provide the Ministry with other related information (e.g. possible impacts on the environment, contingency plans).

20. The Law on Hazardous Chemical Substances also applies in this respect. It covers the handling of chemicals and provides for various procedural restrictions to ensure their safe use, including restrictions on handling, storage and transport by producers and users.

21. In addition to an environmental permit, major hazard installations need approval from the State Inspection for Technical Supervision. This Inspection falls under the Ministry of Economy, Industry and Trade. Its Division for Chemical Enterprise Supervision is responsible for technical safety regulations and inspections in the chemical industry. In case of an infringement of the prescribed safety measures, the inspector will issue an improvement note, which must be implemented by the operator.

22. Concerning the siting of new hazardous activities and significant modifications to existing ones, the Law on the Safety of Hazardous Production Facilities and the Law on Licences and Permits require coordination of decision-making with the MEPNR. As a consequence of these provisions, a zoning around industrial activities is required. For instance in the Rustavi JSC Azoti plant the zoning goes from 1.5 till 3 km around it. (This plant is the largest chemical factory in Georgia, with an annual production capacity of 400,000 tons of ammonia.)

23. The Law on Hazardous Chemical Substances prohibits the location of plants handling these substances near cities, densely populated areas and facilities producing food.

24. Permit-granting authorities, inspectorates and industrial entities have difficulty defining appropriate preventive measures because they lack guidance on the classification of hazardous installations, on the preparation of safety reports, on risk assessment techniques and on safety management systems.

G. Point of contact for the purpose of industrial accident notification and for mutual assistance

25. The Department of Emergency Situation Management (DESM) of the Ministry of Internal Affairs serves as the point of contact. This agency is operational at all times. Its personnel speak Georgian, Russian and English. The technical equipment enables communications by telephone, fax and e-mail.

H. Industrial accident notification system

26. On the regional scale, the Regional Environmental Offices perform some permanent monitoring and take care of warning the population in case of an industrial accident.
27. The DESM is involved in the UNECE Industrial Accident Notification (IAN) System. Its contact details are available on the Convention's website, and the DESM takes part in tests of the IAN System (test performed by the Russian and Bulgarian points of contact).
28. Regional industrial accident notification systems have been established with Armenia and Azerbaijan in the framework of the Joint River Management Programme for the Kura Basin.

I. Emergency preparedness and response and mutual assistance

29. The Law on the Safety of Hazardous Production Facilities requires operators to respond to accidents at the facility according to the on-site contingency plan and to inform the relevant state bodies about the accident. The on-site emergency plan must be approved by the State Inspection for Technical Supervision.
30. The Law on Hazardous Chemical Substances obliges operators of establishments handling the chemicals to provide for an emergency response team and to prepare a contingency plan.
31. At the national level, a National Plan for emergency situations is in preparation. It defines provisions for emergency preparedness and response to natural and anthropogenic casualties, including the coordination of the competent authorities' activities at the central, regional and local levels. The leading service in the implementation of this plan is DESM. Once this plan is adopted, development of regional plans will begin.
32. The primary response to emergency situations is the responsibility of the local authorities. Providing training for local emergency services is one of the tasks of the DESM (see para. 31). If needed, additional forces can be mobilized from the National Guard Reserve to assist the local fire rescue team.
33. According to the Country Report, in most cases there are no contingency plans for emergency situations, and it is questionable whether the existing plans are operational.
34. The operational plan for the implementation of the new Inspectorate for Environmental Protection provides for strengthening of the eight regional offices, which currently have 222 staff members, including 142 for urgent response divisions.
35. Georgia cooperates with the North Atlantic Treaty Organisation (NATO) in the "Partnership for Peace" process, particularly regarding environmental protection through the prevention of, preparedness for and response to natural disasters and industrial accidents, as well as in strengthening rescue services.

J. Information to and participation of the public

36. Article 37 of Georgia's Constitution grants individuals access to information. Based on that article, all institutions have the obligation to provide any information requested by any citizen, except information classified as a state, professional, commercial or personal secret. However, the 1996 Law on State Secrets (art. 8) stipulates that environmental information and information concerning emergencies cannot be classified as state secret.

37. In line with this, article 6 of the Law on Environmental Protection stipulates that a citizen is entitled to obtain full, objective and timely information on the state of the environment where he or she lives; to take part in decision-making; and, through the courts, to demand changes to decisions on projects deemed dangerous from an ecological point of view.

38. This provision is elaborated in the Law on Environmental Permits, which provides for wide public participation. A similar provision pertains to decision-making on the siting of hazardous facilities.

39. In this connection, the Law on Hazardous Chemical Substances should also be mentioned. It provides for a state register of hazardous substances including data and information on their life cycle, production, transport and consumption. Facilities working with hazardous substances have to keep records of their activities.

40. Among the priority tasks of the new Inspectorate for Environmental Protection is to establish effective mechanisms for active participation by civil society in environmental compliance assurance. As a first step, an emergency hotline has been established to receive and respond swiftly to citizens' complaints about environmental offences.

41. According to the Country Report, the potentially affected public in neighbouring countries is not given equivalent opportunities to be informed and to participate, nor does it have access to relevant administrative and juridical procedures.

III. CONCLUSIONS ON THE IMPLEMENTATION OF THE BASIC TASKS

42. The team carefully examined and studied the administrative, institutional and legal framework in order to assess the current situation concerning the implementation of the Convention. On the basis of meetings and interviews with representatives of the authorities and industry, the team has concluded that the legal framework needed to comply with the basic tasks under the Convention is, generally speaking, available, but that the implementation and enforcement of this framework are weak.

43. The creation of the new Inspectorate for Environmental Protection is meant to improve this situation. In addition, the adoption of the new National Plan for Emergency Situations is expected to lead to improved emergency preparedness.

44. The implementation of tasks involving identification of hazardous activities and their notification to neighbouring countries needs to be further strengthened. The authorities should

draw up a list of industrial installations which handle, store or produce hazardous substances in “large” quantities. The Inspectorate on Environmental Protection should establish contacts with authorities in neighbouring countries in order to facilitate notification of hazardous activities.

45. The team recommends that Georgia, after it demonstrates that it has strengthened the implementation of the two above-mentioned tasks, participate actively in the implementation phase of the assistance programme.

46. The team would like to thank the representatives of the authorities and industry for the friendly reception in Georgia and for their cooperative approach in the discussions. The team especially appreciated the work done by the mission coordinator, Ms. Irma Gurguliani, to organize the mission and make it successful.

IV. NEEDS FOR ASSISTANCE

47. The team identified the following specific needs for capacity-building activities, technical advisory services and bilateral pilot projects according to the key tasks under the Convention. The needs are in the areas of preventive measures, emergency preparedness and transboundary cooperation between neighbouring municipalities.

Availability of the Convention and other documentation

48. The provision of documents vital for the Convention’s implementation in Russian would be very helpful.

The Convention and the national legal framework

49. To assist the country in identifying areas that are not covered, are inadequately covered, or are covered by conflicting texts in the relevant national legislation, legal advisory services are needed. Georgia also needs help in preparing a plan for acceding to the Convention.

Competent authorities

50. Assistance is needed in defining an appropriate division of competences and tasks between the new Inspectorate for Environmental Protection and the State Inspection for Technical Supervision. Assistance in promoting cooperation between all authorities involved and with industry would be helpful.

Identification of hazardous activities

51. The country seeks assistance in making an inventory of its hazardous industrial facilities and creating a database from this information. It also needs expert advice for applying the criteria of Annex I to identify hazardous activities.

Notification of hazardous activities to neighbouring countries

52. Assistance in strengthening cross-border cooperation, including notification of hazardous activities, is needed.

Preventive measures

53. The country seeks assistance in drawing up and implementing effective preventive measures. It also requires help in preparing safety management guidelines and risk assessment and safety standards, as well as in training authorities and industry to implement these guidelines.

Point of contact for the purpose of industrial accidents and mutual assistance, industrial accident notification system

54. The personnel of the point of contact require training in operating the UNECE IAN System.

Emergency preparedness and response and mutual assistance

55. The country seeks assistance in developing cooperation with neighbouring countries on emergency preparedness. It also needs assistance in developing on- and off-site emergency plans. The personnel of authorities responsible for emergency preparedness should be trained in drawing up off-site plans. Particular attention should be given to developing compatible off-site contingency plans in border areas. Personnel should also be trained in supporting operators in preparing the on-site plans.

Information to and participation of the public

56. Training in how to involve the public in issues linked to prevention of, preparedness for and response to industrial accidents is requested.