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CONFERENCE OF THE PARTIES
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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 Ukraine

Summary

The fact-finding team, as a result of its mission to Ukraine on 17–20 September 2006, has concluded that the country has implemented the basic tasks under the Convention as described in the assistance programme. The team recommends that the country participate actively in the next phase of 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 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 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 on the fact-finding mission to Ukraine, which took place on 17–20 September 2006 at the invitation of the Ministry of Emergency Situations (MES) and the Ministry for Environmental Protection (MEP).

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

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

- Mr. Lajos Kátai-Urbán, Vice-Chairperson of the Conference of the Parties, Disaster Management Officer in the National Directorate-General for Disaster Management under the Ministry of Local Government and Regional Development of Hungary, and a participant in the legal harmonization and implementation of the Convention and the Seveso II Directive in Hungary

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.

5. The programme for the mission was drawn up jointly by the mission coordinator, Mr. V. Stoetskiy from the MES; Mr. Y. Yuschenko from the MEP; and the Convention secretariat. It included meetings with the following authorities and industrial entity:

- The Ministry of Emergency Situations (MES), which is responsible for the implementation of the legislation on the prevention and mitigation of industrial accidents and for emergency preparedness and rescue in general;
- The Ministry for Environmental Protection (MEP), which is mandated to deal with broad environmental issues and to draw up and supervise state policy on the environment;
- The Kiev State Administration, which is a regional section of the MES and supervises the emergency preparedness and rescue activities in the Kiev Region;
- Obolon JSC, a brewery which maintains a store of 70 metric tons of ammonia for cooling purposes.

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

Ministry of Emergency Situations	
Mr. V. Stoetskiy	Head, State Inspectorate for Civil Protection and Technological Safety
Mr. I. Gasek	Deputy Head, State Inspectorate for Civil Protection and Technological Safety
Ms. O. Gayduk	State Inspectorate for Industrial Facilities
Ministry for Environmental Protection	
Mr. Y. Yuschenko	Head, Department Ecological Safety
Kiev Region State Administration of MES	
Mr. V. Pshenichnyi	Head, Department of Planning and Monitoring
Obolon JSC	
Mr O. Puchok	General Director

B. Basic information on the country

7. Ukraine has a surface area of about 604,000 km² and population of about 48 million. The country shares borders with the Russian Federation to the north-east; Belarus to the north; Hungary, Poland and Slovakia to the west; and Moldova and Romania to the south-west. The Black Sea defines Ukraine's southern border.

8. The country is divided into 24 oblasts (provinces) and one autonomous republic, Crimea. Local self-government is officially guaranteed. Local councils and city mayors are popularly elected. Two cities, Kiev and Sebastopol, have a special legal status.

9. In the first decade after achieving independence from the former Soviet Union in 1991, Ukraine had to overcome serious economic problems. The output of 1999 was less than 40% of the 1991 level. Since 2000 the economy has been expanding, a trend reflected in the growth of the gross domestic product (GDP), which rose 12.4% in 2004. In 2005 the growth rate dipped to 2.4 %, probably because of the political turbulence of 2004.

10. Ukraine is rich in natural resources. It is a heavily industrialized country with a large ferrous metal industry and sizable chemicals production, including mineral fertilizers, sulphuric acid and coke products.

11. Industrial safety is considered to be part of general national security. According to the UNECE Environmental Performance Review of Ukraine (2000), the main reasons for this critical safety situation include (a) the high concentration of potentially hazardous industries, (b) a high rate of obsolescence at the main industrial sites, (c) increased non-compliance with accident prevention measures and (d) the use of dangerous equipment due to a lack of discipline at all levels of industry.

12. Cooperation with neighbouring UNECE member countries is arranged through bilateral agreements, which are implemented adequately.

13. Ukraine is not a Party to the Convention, nor has the Government as yet taken a formal decision to accede. It is envisaged that the country may become a Party in 2008. Consequently, the fact-finding team has considered to what extent the provisions in place are equivalent to the basic requirements.

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

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

14. The text of the Convention is not available in Ukrainian. The authorities have access to Russian-language versions of the Convention text and other vital documentation for the Convention via the Convention website, through links to the websites of the competent ministries.

15. Since Russian is widely understood in Ukraine, access to the documentation in Russian can be considered an adequate solution for the time being. It is however, advisable for the authorities to have the Convention text as well as other vital documentation translated into Ukrainian in the near future.

B. The Convention and the national legal framework

16. Ukraine is seeking to harmonize its laws with EU legislation. In drafting new laws and regulations, the respective EU legal acts are taken into account. Thus Ukraine's regulatory system for industrial safety was shaped according to the Seveso II Directive, and harmonization with the Convention was sought.

17. According to the Law on Environmental Protection, industrial establishments need a licence which specifies the relevant environmental requirements. This licence is issued by the local authorities or, for bigger establishments, by the regional authorities or the MEP.

18. In addition, pursuant to the Law on Facilities of Increased Danger, hazardous establishments must obtain a special permit before they can start their activities. The necessary implementing secondary legislation is in force.

19. This permit is also issued by the abovementioned authorities and needs the approval of two inspectorates falling under the MES: the State Inspectorate for Civil Protection and Technological Safety and the State Inspectorate for Industrial Facilities.

20. In addition, by virtue of a special decree, a contract between the operator and the head of the State Administration of the region provides for regular supervisions and inspections.

21. The country also has legislation specifying the obligation for hazardous establishments to be insured for claims resulting from accidents caused by their activities.

C. Competent authorities

22. There are two ministries in Ukraine dealing with the Convention. The MEP is responsible for preparations for accession to the Convention and acts as focal point. For about six years a MEP representative has taken part in the activities of the Convention. The MES is responsible for implementing the regulations on the prevention and mitigation of industrial accidents and for emergency preparedness and response.

D. Identification of hazardous activities

23. The process of identifying the installations capable of causing industrial accidents has almost been completed. Using the criteria of the Seveso II Directive for “upper and lower tiers” establishments, about 5,500 hazardous installations belonging to 2,284 establishments have been identified. The next step – identification of activities capable of causing transboundary effects and thus falling under the Convention – remains to be done. It concerns an estimated 500 installations.

E. Notification of hazardous activities to neighbouring countries

24. The notification of hazardous activities is provided for in the Law on Facilities of Increased Danger and in bilateral agreements on disaster management and mutual assistance. It is implemented by the regional departments of the MES, which are located in the border regions. Although the official identification of activities falling under the Convention has not yet been done, these regional departments are apparently aware of the activities in question. The fact-finding team could not determine whether the information given to neighbouring countries was in accordance with the provisions of the Convention.

F. Preventive measures

25. Secondary legislation based on the Law on Facilities of Increased Danger pertains to preventive measures. These decrees include rules regarding the identification of hazardous installations, the information that must be provided by the operator (notification and safety report) and the issuance of permits for the operation of the installation. In addition, guidelines on risk assessment methods and a State Standard establishing general provisions and requirements for ensuring the safety of installations have been issued. Also, a decree establishing a State Register of existing hazardous establishments is in force. Training courses have been held to introduce industry to this system of industrial safety regulation.

26. Policies on the siting of new hazardous activities and on significant modifications to existing ones have been established. The decision-making is based on a risk assessment performed by the operator and assessed by the regional or local competent authorities. It takes into account the amount of dangerous substances involved, the likelihood and effects of possible major accidents, and the vulnerability of surrounding areas.

27. The team was able to discuss the preventive measures taken by the operator of a hazardous activity while visiting a brewery of the Obolon JSC company in Kiev. This facility, located close to a residential area, routinely stores 70 metric tons of ammonia for cooling purposes. Its hazardous installations are under the permanent supervision of a specialized team, an internal monitoring system is permanently operational. The facility is regularly inspected by the State Inspectorate. The company's general director said his facility had a cooperative relationship with the competent authorities.

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

28. The MES acts as the point of contact for the purpose of industrial accident notification and mutual assistance. The centre is operational at all times. The technical equipment comprises telephone, fax and e-mail. The languages spoken are Ukrainian and Russian.

H. Industrial accident notification system

29. The MES has established and operates an accident notification system similar to the UNECE Industrial Accident Notification (IAN) System. The system is also operational at the regional and local levels. In the framework of bilateral agreements with all neighbouring countries, arrangements have been made regarding accident notification systems.

30. Although the MES does not itself operate the UNECE IAN System, it is involved in this system. The contact details of the MES are available on the Convention website and it participates in tests of the IAN System (test performed by the Russian point of contact).

I. Emergency preparedness and response and mutual assistance

31. The Law on Protection of the Population and Territories from Emergency Situations of an Anthropogenic and Natural Character outlines provisions for emergency preparedness and

response at the national, regional and local levels. At the national level, Ukraine has a national plan for emergency situations. The leading service in the implementation of this plan is the MES along with its regional departments and its two inspectorates.

32. Every region has a Regional Contingency Plan based on an inventory of possible accidents, natural or caused by humans. The Plan is revised every six months, or more frequently when accidents occur. The size of the emergency and rescue services is determined on the basis of the Plan. Every local government is also obliged to adopt an off-site contingency plan.

33. The team had an opportunity to see how the Kiev Region State Administration is organized and how it manages and coordinates accident prevention, mitigation and response activities for the Kiev Region, which has 1.8 million inhabitants and houses about 50 chemical establishments and 40 highly explosive facilities. The chemical establishments have the potential to create toxic emissions (mainly Cl₂ and NH₃). Many other emergency situations are possible.

34. The Kiev Region State Administration of the MES has 107 employees who manage and coordinate the prevention, mitigation and response activities. In addition, the regional Inspectorate for Civil Protection and Technological Safety has 22 inspectors, and the Kiev Region Fire Brigade has 2,000 firefighters.

35. Because the Kiev Region borders Belarus, the Administration is also responsible for the implementation of the bilateral agreement with this country on transboundary activities concerning accident prevention, emergency preparedness and response. Within the framework of this agreement, a joint action plan and a warning system have been developed.

36. Every hazardous establishment is obliged to have an on-site contingency plan. This plan has to be prepared by a consultant certified by the state institution for this task. Once the plan is ready, it must be approved by the regional Inspectorate for Civil Protection and Technological Safety.

J. Information to and participation of the public

37. Ukraine has been a Party to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters since 1999, and legislation has been created governing procedures for submitting environmental data and for public participation in decision-making on environmental protection. The fact-finding team could not establish whether Aarhus Convention-related legislation, especially concerning public participation, also pertained to the regulations implemented under the responsibility of the MES for the prevention of industrial accidents. In any case, these regulations contain provisions regarding information to be provided to the public. The State Register of facilities of increased danger, available via the official website www.dnop.kiev.ua, contains general information on the hazard characteristics of the registered facilities.

38. Operators of new hazardous establishments are legally obligated to prepare and disseminate to the public information on their activities as well as on the safety measures in place and on how to behave in case of an accident. The operators of existing establishments do

not have such obligations, and the provision of information to the public is considered a task of the communication departments of the regional or local authorities.

39. There are no legal provisions providing for public involvement in the drafting of contingency plans. However, the public can participate in the decision-making on the siting and construction of hazardous facilities.

III. CONCLUSIONS ON THE IMPLEMENTATION OF THE BASIC TASKS

40. The team carefully examined and studied the administrative, institutional and legal set-up in order to assess to what extent the current situation meets the basic requirements of the Convention. Based on the study of the country report and on meetings and interviews with representatives of authorities and industry, the team concludes that Ukraine has implemented the basic tasks required by the programme.

41. It should be stressed that the competent authorities are urged to translate the Convention into Ukrainian in the near future. As long as this remains undone, they should publish the text of the Convention in Russian on the websites of the Ministries instead of merely having a link to Convention website.

42. The team established that, although the early-warning system in use is not the UNECE IAN System, it is operational at all required levels. In addition, the bilateral agreements that exist with all neighbouring countries include arrangements for notification.

43. The team noted that the MES has the primary responsibility for prevention of, preparedness for and response to industrial accidents. Therefore its experts should participate in the activities under the Convention.

44. The team would like to thank the representatives of the authorities and industry for the friendly reception in Ukraine and for their cooperative approach in the discussions. The team especially appreciated the work done by the mission coordinator, Mr. Stoyetski, and by Mr. Yuschenko to organize the mission.

IV. NEEDS FOR ASSISTANCE

45. The following specific needs for assistance were identified by Ukraine's representatives and/or by the fact-finding team.

Availability of the Convention

46. The country requested assistance in translating the Convention into Ukrainian.

Identification of hazardous activities

47. Assistance in applying Annex I to the Convention is needed in order to identify the activities falling under the Convention.

Preventive measures

48. Assistance is sought (in the form of workshops, training, pilot projects, etc.) for public authorities and industry on risk management and risk analysis methodologies and their application in decision-making on permitting, siting and monitoring.

Information to and participation of the public

49. Training for the authorities and industry in involving the public in issues linked to prevention of, preparedness for and response to industrial accidents would be very helpful.